

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

W11b



Filed:	11/18/03
49th day:	1/6/04
49-day waiver:	11/6/03
Staff:	SM-SC
Staff report:	7/29/04
Hearing date:	8/11/04
Hearing item number:	W11b

STAFF REPORT: REGULAR CALENDAR

COASTAL DEVELOPMENT PERMIT

Application NumberA-3-SLO-03-113, Los Osos Wastewater Treatment Facility

Applicant.....Los Osos Community Services District

Project description.....Construct and operate a wastewater treatment system to serve areas of Los Osos, Baywood Park, and Cuesta-by-the-Sea.

Project locationTreatment facility at Ravenna Avenue and Los Osos Valley Road (11-acre “Tri-W” site); collection and disposal facilities, and harvest wells to manage groundwater levels, distributed throughout the South Bay Urban area, as shown by Exhibit 2.

File documents.....San Luis Obispo County Certified Local Coastal Program (LCP); San Luis Obispo County Development Plan Application File No. D020283D; correspondence and materials submitted to the Commission by project applicants, appellants, the Central Coast Regional Water Quality Control Board, and other interested parties; San Luis Obispo County Local Coastal Program Amendment File 3-01; Periodic Review of the San Luis Obispo County Local Coastal Program, adopted by the Coastal Commission on July 12, 2001; Coastal Commission staff comments on the Draft Estero Area Plan Update dated November 24, 2003 and February 25, 2000; Appeal File A-3-SLO-97-040 (San Luis Obispo County’s former application for a Wastewater Treatment Facility to serve the Los Osos area).

Staff recommendation ...Approval with Conditions

Procedural Note: On April 15, 2004, the Coastal Commission determined that an appeal of the Coastal Development Permit approved by the County of San Luis Obispo for the construction and operation of a wastewater treatment facility to serve the community of Los Osos raised a substantial issue regarding conformance with the County’s certified Local Coastal Program. As set forth by Section 13115(b) of



California Coastal Commission

August 11, 2004 Meeting in San Pedro

Staff: SM Approved by:

C:\Documents and Settings\mfrum\Local Settings\Temporary Internet Files\OLK150\A-3-SLO-03-113 (Los Osos Wastewater Treatment Facility) 7.29.04.doc

the California Code of Regulations, the next step is for the Commission to consider the merits of the project in a De Novo hearing.

At the De Novo hearing stage, the general procedures for Commission action are typically the same as if the coastal development permit application had been submitted directly to the Commission, except that the standard of review is the certified Local Coastal Program (LCP) rather than Chapter 3 of the Coastal Act (PRC Section 30604(b)). The public access and recreation policies of Chapter 3 of the Coastal Act also apply to development between the nearest public road and the sea (Coastal Act Section 30604(c)).

The standard of review is also affected by the fact that the development under consideration is a wastewater treatment facility. LCP Policy 9 for Public Works states:

Policy 9: Review of Treatment Works

For Any development that constitutes a treatment works (PRC 30120)¹, issuance of a permit shall be consistent with the certified LCP and PRC 30412 and shall address the following aspects of such development:

- a. The siting and visual appearance of treatment works within the coastal zone.*
- b. The geographic limits of the service area within the coastal zone which is to be served by the treatment works and the timing of the extension of services to allow for phasing of development consistent with the certified LCP.*

Coastal Act 30412, cited by LCP Public Works Policy 9, states:

(a) In addition to Section 13142.5 of the Water Code, this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.

(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a

¹ Section 30120 provides: "Treatment works" shall have the same meaning as set forth in the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) and any other federal act which amends or supplements the Federal Water Pollution Control Act.



manner necessary to carry out this division.

(c) Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:

- (1) The siting and visual appearance of treatment works within the coastal zone.*
- (2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for those service areas to allow for phasing of development and use of facilities consistent with this division.*
- (3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.*

The commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

Executive Summary

The development of a wastewater treatment facility to serve Los Osos is a priority of California's water quality program, and essential to protect the marine habitats, recreational opportunities, and coastal dependent uses of the Morro Bay National Estuary. The history of local, state and federal efforts to address this need spans more than twenty years, during which various alternatives have been evaluated and pursued. In addition to providing effective wastewater treatment, a primary objective is to dispose of treated wastewater disposal in a manner that replenishes the groundwater basin, that provides the community's water supply.



Without questioning the need for a wastewater treatment system, valid concerns have been raised regarding the siting, construction, and operational impacts of the proposed system, and whether these impacts have been addressed consistent with the requirements of the San Luis Obispo County certified Local Coastal Program (LCP). At the core of these concerns is the proposed location of the treatment plant in a central area of the community known as the Tri-W site, and the impacts this will have on coastal resources and surrounding land uses. Other concerns include the overall impacts of project construction and operation on environmentally sensitive habitat areas, water supplies, wetlands, scenic views, and archaeological resources, as well as consistency with LCP standards regulating treatment capacities and service areas.

Staff has analyzed these issues and, with certain key exceptions, found that the terms of San Luis Obispo County's approval effectively implement applicable LCP and Coastal Act standards. Staff therefore recommends the Commission **approve** the coastal development permit **subject to conditions** that incorporate, supplement, and revise the terms of San Luis Obispo County's approval, for the reasons summarized below and detailed in the findings of this report.

Treatment Site Alternatives

LCP Amendment 3-01, approved by the Commission in August 2002, established wastewater treatment facilities as an allowable use at the proposed Tri-W site. However, questions and issues raised at the April 15, 2004 Substantial Issue hearing regarding siting alternatives led the Commission to request more information on the feasibility and potential environmental benefits of relocating the treatment system to an agricultural parcel known as the Andre site. In response, the District submitted copies of the Andre parcel's deed, along with a letter from Pacific Gas and Electric, documenting property restrictions associated with the presence of overhead power lines that render the Andre site an infeasible location for the treatment plant (see correspondence attached at Exhibit 6). Staff is therefore recommending that the Commission approve the construction of the treatment plant on the Tri-W site, as allowed by the LCP.

ESHA

San Luis Obispo County conditions of approval appropriately require the district to reduce and mitigate the impacts of construction activities on environmentally sensitive habitat areas (ESHA), in accordance with standards established by LCP Amendment 3-01². The one exception to this case is authorization to construct Ravenna Avenue to a length greater than that which is necessary to provide access to the Treatment Plant. This would not only result in an unnecessary loss of ESHA, but would encourage development of the adjacent parcel, which also contains ESHA. As a result, recommended conditions require that the road be shortened to the minimum length necessary.

Impacts from future development facilitated by the project are also inadequately addressed. Fine sandy

² The loss of approximately 16 acres of low to medium quality coastal scrub habitat attributable to project construction will be offset, among other means, by the protection and restoration of 72 acres of ESHA on the Borderson site, which contains a mix of coastal scrub and maritime chaparral habitats.



soils throughout and adjacent to the 1,270-acre service area support a unique ecosystem comprised of various sensitive habitats. About 250 acres (19%) of this area remains undeveloped, in large part due to the septic tank discharge prohibition established by the RWQCB in 1988. Together, these undeveloped areas form an integral component of the area's biologic resource base. The provision of wastewater treatment will enable development of these habitat areas, and thereby raises conflict with LCP ESHA protection requirements.

While the district is not required to provide the mitigation for future impacts of private development, it is required to provide wastewater treatment service in a manner consistent with LCP ESHA protection requirements. Accordingly, to ensure that the removal of the septic discharge moratorium does not facilitate development inconsistent with ESHA protection standards, the project EIR and the certified LCP call on the LOCSD to prepare a Habitat Conservation Plan (HCP) as part of the coastal development permit application for the wastewater treatment project, and to implement the approved HCP throughout the life of the project. County Conditions of approval do not adequately carry out these requirements because the draft HCP is not sufficiently developed to rely on as effective means of protecting ESHA; the conditions do not address the changes to the LCP that will be necessary to effectively implement the HCP; and, because the conditions inappropriately rely on a future US Fish and Wildlife Service permit process to address unresolved ESHA protection issues.

Therefore, to ensure that the final version of the HCP will effectively carry out LCP ESHA protection requirements and be in place before development of vacant land begins to occur, recommended conditions of approval prohibit the District from providing service to undeveloped parcels until an LCP amendment, integrating an HCP for the South Bay Urban Area with the Estero Area Plan, has received final certification by the Commission. It is essential that the plan address the entire urban planning area because the protection of remaining habitats within this area is being relied upon to mitigate for the loss of habitat within the service area. Updating the LCP development standards that are necessary to provide such protection is critical to the effective implementation of the HCP, and key to the survival of impacted species.

Groundwater Resources

Construction of a wastewater treatment facility to replace existing septic system is essential to protect the Los Osos groundwater basin. Providing this service to undeveloped lots is not, in comparison, an immediate environmental protection need. Rather, the new development facilitated by the project poses adverse impacts to groundwater basin by increasing demands for water.³ According to estimates cited by the LCP, the basin is currently being drafted at a greater rate than it is being recharged. More recent information, however, such as a Water Master Plan and Safe Yield analysis prepared for the LOCSD, suggests that there may be adequate water supplies to support limited growth, provided careful groundwater management and basin recharge through treated wastewater disposal.

The process to resolve outstanding questions regarding sustainable levels of buildout, and thus

³ The capacity of the treatment plant is designed to serve the hypothetical maximum level of development (buildout) allowed by the draft Update to the LCP's Estero Area Plan, which would increase the current population of 15,000 to approximately 20,000.



appropriate public service capacities, is to update LCP development standards and intensities in accordance with current information regarding sustainable water supplies and groundwater management needs. This is a key component of the County's current efforts to amend the Estero Area Plan, and a priority recommendation of the Commission's Periodic Review.

Accordingly, the LOCSD has made an effort to coordinate the treatment plant's capacity with the Estero Area Update. Efforts to construct the sewer system, however, have outpaced the process for resolving key issues regarding appropriate levels of projected development. The capacity of the plant is sized to enable vacant properties to be subdivided and developed according to the maximum density potential of its land use designation. This maximum buildout estimate exceeds the projected development allowed under a current reading of the LCP's resource protection requirements. In the case of groundwater, it does not account for the fact that the Commission has found, in recent cases that further subdivision of Los Osos is inconsistent with LCP standards regarding water supplies. The draft Estero Update, currently being reviewed by the San Luis Obispo County Board of Supervisors, attempts to respond to these concerns, but important issues regarding development and sustainable water supplies remain unresolved.

Concerns about this timing problem were expressed in Commission staff comments on the EIR in 2001. At that time, staff recommended phasing the project to provide immediate wastewater treatment needs to existing development at the initial stage, and expanding capacity only after the Update process is completed. Project engineers responded that it was not feasible or economical to phase the capacity of the plant. As an alternative means to ensure the capacity of the plant does not exceed the level of development allowed by the LCP, the conditions of this permit require the provision of wastewater service to be phased in coordination with an LCP amendment that resolves buildout issues and constraints.

Another issue regarding project compliance with LCP groundwater resource protection standards is the previous proposal to discharge water harvested from the upper aquifer into Morro Bay. The proposed method of treated wastewater disposal will change groundwater levels, and may necessitate groundwater withdrawals to prevent flooding and/or hazardous subsurface conditions. The possibility that significant quantities of water may be withdrawn from the upper aquifer and discharged to the Bay poses adverse impacts to the areas water supply by reducing groundwater recharge.

This concern is largely mitigated by the LOCSD's recent decision to delete such discharges from the project description. That action does not, however, ensure that such discharges will not be needed and pursued in the future. Recommended conditions therefore clarify that any future proposal to discharge harvest water to the Bay or Ocean requires an amendment to this permit, the application for which must be accompanied by evidence that other methods of disposal which retain the harvested water within the groundwater basin, such as agricultural storage and use, have been exhausted. Restricting harvest water disposal in accordance with these terms is necessary to carry out LCP standards requiring new development to maximize groundwater recharge opportunities and protect groundwater supplies. An additional condition intended to implement LCP requirements to maximize groundwater recharge and protect coastal water quality calls on the LOCSD to participate in a program to evaluate and, where



appropriate, assist property owners in the implementation of opportunities to re-use existing leachfields to filter and percolate storm water runoff.

Service Area

Yet another growth inducing concern is the proposal to include land outside the LCP's Urban Service Line (USL), as well as land that is currently protected from residential and commercial development, within the wastewater collection area. A recommended condition requiring omission of such properties from the service area is necessary to carry LCP standards regulating the extension of public services, which provide a critical tool for maintaining stable urban boundaries.

From an alternative but equally valid perspective is the concern that the service area is not broad enough to provide effective groundwater protection. The service area, which corresponds to the septic tank prohibition area established by the Central Coast Regional Water Quality Control Board (RWQCB), comprises 1,270 acres of the 2,117 acres within the USL eligible to receive wastewater treatment service. As indicated above, the Commission is not in favor of expanding the proposed service area in a manner that would facilitate growth in areas of ESHA and inadequate water supplies. The concept of expanding service to existing residences in developed areas within the USL, such as Cabrillo Estates, does not violate this principal. Nevertheless, in response to questions regarding the potential water quality and cost saving benefits of including the Cabrillo Estates neighborhood, the RWQCB and LOCSD indicate that such an expansion is neither necessary nor economically beneficial (correspondence attached as Exhibits 6 and 7).

Wetlands

Notwithstanding wetland benefits of wastewater treatment that will be realized through the protection and improvement of water quality, project construction activities, such as grading and dewatering, have the potential to impact wetlands through erosion, sedimentation, and the discharge of pollutants. These impacts are addressed consistent with LCP requirements by County conditions establishing detailed standards for such activities and requiring compliance with RWQCB's National Pollutant Discharge Elimination System (NPDES) permit requirements.

Another potential impact is the possibility that sewage overflows could discharge harmful materials to protected wetland habitats. In accordance with RWQCB and DOHS requirements, the LOCSD will prepare an Emergency Response Plan that will prescribe procedures for responding to sewer or chemical spills. Standards for seismic and geologic safety are established by County conditions 29-32. In addition, County condition 51 requires preparation of a Hazardous Materials Management Plan to address the discharge of harmful materials. In combination with drainage plan requirements established by conditions 23 –28, the project will be designed in accordance with LCP requirements intended to prevent such spills.

Potential wetland impacts that are **not** adequately addressed by the County's terms of approval include:



- components of the proposed collection system that encroach within wetlands and wetland setbacks established by the LCP;
- decommissioning of septic tanks, which could lower groundwater levels; and
- boring of pipelines, which could cause the discharge of drilling muds and pollutants into wetland habitats.

In order to address these issues consistent with LCP requirements, recommended conditions supplement the County terms of approval and require:

- submittal of revised plans for collection system components proposed within 100 feet of wetlands that provide the maximum feasible wetland setback and re-route the collection system to avoid boring beneath the wetland area between Solano/Butte and Henrietta street, as well as between Lupine Road and Binscarth Road;
- implementation of a groundwater level monitoring and management plan that identifies and responds to changes in groundwater levels that could affect wetland hydrology;
- development and implementation of a program to reuse existing leachfields for stormwater management where feasible
- implementation of boring activities in accordance with Department of Fish and Game and RWQCB requirements.

Scenic Resources

The treatment plant is sited on an 11 acre parcel that is part of a larger 55 acre undeveloped portion of the central community. The site is adjacent to Los Osos Valley Road (a primary arterial), and affords views of Morro Bay, Morro Rock, Hollister Peak, and the Irish Hills. The urban context of the site, however, diminishes its visual significance in comparison to scenic coastal views available from nearby parks and waterfront areas.

In light of the urban setting, the LCP's land use designations allow for both commercial and public facility development. To accommodate these uses in a manner that protects scenic resources, the LCP requires development to be located on the least sensitive portions of the site, and to incorporate grading and revegetation plans that minimize visual impacts.

In an effort to comply with these requirements, treatment facilities have been sited in a low area of the property. The building pad for the treatment facilities will be excavated to a level below natural grade, and the tallest treatment building will extend no higher than 15 feet above the elevation of Los Osos Valley Road. Other measures to minimize visual impacts include:

- Setting the aeration basin below finished grade;



- Installing landscaped berms around the facility;
- Constructing curvilinear screening walls (“wave walls”); and,
- Using colors, materials, and textures for the treatment buildings and screening walls that are compatible with the surrounding environment.

To further minimize visual impacts of the project conditions of approval require:

- construction operations plans that locate storage and staging areas outside view corridors;
- detailed landscape plants for the treatment plant that use native drought-tolerant species;
- lighting plans that avoid unnecessary lighting and glare; and,
- restoration, protection, and enhancement of the coastal scrub and maritime of the Broderson site, including plans to re-establish and maintain coastal scrub habitat within wastewater disposal area.

With these conditions, the project is consistent with LCP visual and scenic resource protection standards.

Archaeological Resources

Archaeological investigations conducted for the project have not identified significant cultural resources at the treatment plant or disposal site, and conditions of permit ensure that appropriate steps be taken to address and artifacts that may be encountered during construction. A greater concern is the impacts of the collection system, involving excavations and borings throughout the community to install the necessary pipelines.

To address potential impacts to cultural resources posed by the construction of the project, the LOCSD has developed a Cultural Resources Treatment Plan that has been submitted to and approved by the State Historic Preservation Office. The plan specifies procedures for further study, subsurface testing, monitoring during construction activities, and compilation of an archaeological resource database. This will include cataloging of archaeological resources in the location where future lateral connections to the collection system will take place. The location of future lateral collections will be adjusted where possible to avoid archaeological resources, and accompanied by archaeological resource monitoring in areas where the cataloging program identifies the potential for archaeological resources to exist. With these measures, the project conforms to LCP standards protecting archaeological resources.



Staff Report Contents

	page
I. Staff Recommendation.....	12
II. Standard Conditions.....	13
III. Special Conditions	13
Approved Development.....	13
Access and Improvements	14
Improvement Plans	14
Parking	15
Utilities.....	16
Signs.....	16
Fencing and Landscaping	16
Setbacks	17
Building Heights	18
Fire Safety	19
Drainage and Erosion.....	19
Seismic and Geologic Safety	20
Hydrogeology	21
Cultural Resources.....	22
Air Quality	23
Odor Control	24
Noise	25
Public Health, Safety and Services	26
Visual Resources.....	27
Biological Resources	28
Service Area And Capacity Conditions	34
IV. Recommended Findings and Declarations.....	34
A. Project Background.....	34
B. Project Location and Description	36
D. Environmentally Sensitive Habitat Areas.....	37
1. LCP ESHA Standards	37
2. Analysis	41
a. Impacts of Project Construction	41
b. Alternatives	42
c. Proposed Mitigation.....	44
1) Minimize Direct Impacts	44
2) Offset Unavoidable Impacts	44
3) Establish and Implement Plan to Address Impacts of Buildout	45
3. Conclusion	48
D. Service Area and Capacity Issues	49
1. LCP Policies	49



2. Analysis	50
a. Relationship of Service Area to Urban Service and Reserve Lines	50
b. Relationship of Project Capacity to Buildout allowed by the LCP	51
3. Conclusion	52
E. Groundwater Resources	53
1. LCP Standards	53
2. Analysis	54
a. Groundwater Supplies	55
b. Groundwater Recharge	59
3. Conclusion	59
1. Applicable LCP Policies	60
2. Analysis	64
a. Pump Station and Pipeline Setbacks	65
b. Pipeline Borings	69
c. Septic Tank Decommissioning	72
d. Treatment Facilities	74
3. Conclusion	74
J. Visual Resources	75
1. LCP Standards	75
2. Analysis	77
3. Conclusion	80
G. Marine Habitats and Coastal Water Quality	80
1. LCP Standards	80
2. Analysis	81
3. Conclusion	82
F. Archaeological Resources	82
1. LCP Policies	82
2. Analysis	84
3. Conclusion	85
H. Hazards	85
1. LCP Standards	85
2. Analysis	85
a. Geologic Hazards	85
b. Sludge Disposal	86
3. Conclusion	86
G. Odors	86
1. LCP Standards	86
2. Analysis	87
3. Conclusion	87
I. Access and Recreation	88
1. LCP Standards and Coastal Act Policies	88
2. Analysis	89



3. Conclusion	90
D. California Environmental Quality Act (CEQA)	90

Exhibits

Exhibit 1:	Modifications to San Luis Obispo County Conditions of Approval
Exhibit 2:	Project Location and Plans
Exhibit 3:	Portions of Collection Area Outside the LCP's Urban Service Line
Exhibit 4:	LCP Required Mitigation Measures
Exhibit 5:	Wetland Maps and Information
Exhibit 6:	CCC Staff's 3/27/04 request for Additional Information and LOCSD's Response
Exhibit 7:	SWQCB and RWQCB Correspondence post 4/15/04 Substantial Issue Determination
Exhibit 8:	LOCSD Correspondence post 4/15/04 Substantial Issue Determination
Exhibit 9:	USFWS Letter of July 22, 2004 regarding the Draft HCP
Exhibit 10:	Other Correspondence post 4/15/04 Substantial Issue Determination

I. Staff Recommendation

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit No. A-3-SLO-03-113 pursuant to the staff recommendation.

Staff Recommendation Of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution To Approve The Permit. The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned conforms to the San Luis Obispo County certified Local Coastal Program and the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.



II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions⁴

Approved Development

1. This approval authorizes construction and operation of a community-wide sewer system described by application materials and shown by project plans attached as Exhibit 2 to this report, including:
 - a. A Septic System Maintenance and Management Program (SSMMP);
 - b. A wastewater collection system, including lateral lines from individual structures to the street, connection lines at each property, sewer mains, and pump stations;
 - c. A wastewater treatment facility;
 - d. Wastewater disposal facilities and harvesting and monitoring wells;
 - e. Wastewater sludge handling facilities at the wastewater treatment plant to enable the hauling of sludge to a disposal or recycling facility;

⁴ The Special Conditions of Commission approval represent a modified set of the conditions of approval established by San Luis Obispo County. A strikethrough and underline version showing the precise changes made by the Commission is attached to the report as Exhibit 1.



- f. Appurtenant structures and on-site amenities at the treatment plant site shown by the Conceptual Landscape Plan dated July 14, 2004, prepared by RRM Design Group site plan and attached as page 5 of Exhibit 2;
 - g. Construction activities associated with the installation of approved facilities;
 - h. A program for the mitigation of direct impacts to habitat for endangered species;
 - i. Construction of an underground pump station with an above-ground electrical panel located at 3rd Street between El Moro and Paso Robles, within 75' of a coastal wetland.
2. Except as otherwise required by the conditions of this permit, all development shall be consistent with the site plans and technical drawings dated February 2004, attached (in part) as Exhibit 2, as well as with all final architectural elevations, color boards and landscape plans reviewed and approved by the County and/or the Executive Director of the Commission pursuant to the conditions below.
3. All development shall be consistent with the conditions contained herein.

Access and Improvements

4. Roads and/or streets to be constructed to the following standards:
- a. Ravenna Avenue constructed to a South Bay Circulation Study Figure 10 section with 12-foot paved bicycle/pedestrian path and 8-foot paved parking bay along the project side, within a minimum 40 foot dedicated right-of-way. Ravenna Avenue shall not be extended any further than the northern limit of the facility entrance.
 - b. Palisades Avenue improved with the construction of a 6-foot paved pedestrian path fronting the property.
 - c. Los Osos Valley Road widened to complete a South Bay Circulation Study Figure 8 section fronting the property. The applicant shall enter into an agreement, in a form acceptable to County Counsel, to jointly fund and construct improvements to the Los Osos Valley Road frontage of the site. County Public Works will prepare improvement plans for the Los Osos Valley road improvements.
5. **After completion of improvements**, the applicant will offer for dedication to the public a 20 foot radius property line return at the intersection of Los Osos Valley Road with Ravenna and Palisades Avenue.
6. The project will include a bus turnout as part of the frontage improvements and a Class I bicycle trail on Los Osos Valley Road.

Improvement Plans

7. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of



Public Works and the County Health Department for approval **prior to the issuance of a building/grading permit**. The plan is to include:

- a. Street plan and profile.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Grading and erosion control plan for project related improvement locations.
 - d. Public utility plan, showing all existing utilities and installation of all utilities to serve the project facilities.
8. For those improvements that may be required by Condition 7, the applicant shall enter into an agreement with the county for the cost of checking the improvement plans and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
9. The Registered Civil Engineer, **upon completion of the improvements**, must certify to the Department of Public Works and the Executive Director of the Coastal Commission that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.
10. If permits from the Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board, or US Fish and Wildlife Service are required for any component of project construction, the applicant shall provide a copy of the approved permit to the Executive Director of the Coastal Commission prior to commencing the regulated activity. For any public improvements that are to be maintained by the County, the applicant or his engineer, **prior to the approval of the plans** by the Department of Public Works shall:
- a. Submit a copy of all such permits to the Department of Public Works OR
 - b. Document that the regulatory agencies have determined that said permit is not longer required.
11. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program. All discharges and dewatering activities shall be authorized by the Regional Water Quality Control Board.

Parking

12. The treatment plant site shall have the following parking spaces:
- a. Operations building: 8 spaces + 2 handicap spaces
 - b. Ravena Street: 11 spaces
 - c. Palisades parking lot: 15 spaces



13. All other facilities shall be designed to provide adequate and safe parking for district operations personnel.

Utilities

14. Electric, telephone, and other utility lines shall be installed underground.

Signs

15. Signs shall conform to LUO 23.04.300. **Prior to completion**, the LOCSD shall provide signage at the treatment plant site indicating the facility and public amenities.

Fencing and Landscaping

16. **Prior to issuance of building/grading permits by San Luis Obispo County**, submit final landscape, irrigation, and landscape maintenance (plans in accordance with Sections 2304.180 through 23.04.186 of the Coastal Zone Land Use Ordinance) and fencing plans to the Development review Section of the Planning and Building Department and to the Executive Director of the Coastal Commission for review and approval. Landscape plans shall include location, species and container size of all proposed plant materials and method of irrigation. All proposed plant materials shall be of a drought tolerant variety and be sized to provide a mature appearance within 3 years of installation. The landscape plan shall include the following:
 - a. Native-type plants as specified by the CZLUO, and a list of all species proposed for planting. Use of exotic invasive species is prohibited.
 - b. Parking lot trees in accordance with Section 23.04.168f.
 - c. Plantings to screen the development, prepared and approved in accordance with Special Condition 60, below.
 - d. Location and height of all proposed fencing per 23.04.190, including the following:
 - i. Dog Park Fencing
 - ii. Sedimentation basin fencing
 - iii. Wave wall and gravity wall details
 - iv. Multi-use path treatment
 - v. Security fencing
17. Fencing, landscaping and park amenities in accordance with the site plan attached as page 5 of Exhibit 2. Landscaping and park amenities (e.g., dog park, off-street parking, amphitheater, tot lot, picnic area, multi use area, community gardens, and pathways and trails shown by Exhibit 2) shall be installed or bonded for before final building inspection. If bonded for, landscaping park



amenities shall be installed **within 60 days after final building inspection** and thereafter maintained in a viable condition in perpetuity.

Setbacks

18. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval the of the San Luis Obispo County Planning Director and the Executive Director of the Coastal Commission, revised site plans for the following sites:
 - a. East Paso Pump Station and Standby Power Facility, setbacks revised to show:
 - i. Front- 25'; Side- 5' if parcel is less than 1 acre, 30' if greater than 1 acre
 - ii. Rear - 10' if parcel is less than 1 acre, 30' if greater than 1 acre
 - b. Sunny Oaks Pump Station and Standby Power Facility setbacks revised to show:
 - i. Front- 25'; Side- 5' if parcel is less than 1 acre, 30' if greater than 1 acre
 - ii. Rear - 10' if parcel is less than 1 acre, or 30' if greater than 1 acre
 - iii. No oak trees shall be removed from the Sunny Oaks site
 - c. The Lupine Street standby power building shall be setback a minimum of 75' from the edge of the wetlands located to the south of the site. Boring under and/or trenching within the Donna Street wetlands shall be prohibited. The force main that conveys flow from the Lupine Pump Station to the Wastewater Treatment Facility shall be re-routed from the Lupine Pump Station east on Lupine Street, south on Fearn Avenue, east on Binscarth Road, and then matched to the remaining alignment to the Wastewater Treatment Facility.
 - d. The West Paso pump station and electrical facility will be located on the eastern side of 3rd Street.
 - e. The 4th Street pocket pump station (PPS) and sewer collection line currently located within the identified wetland area shall be removed. An alternative siting option shall be selected that avoids development within the identified wetland resource. The alternative shall either: 1) Relocate the water main closer to the property corner at the southwest corner of the 4th Street and Santa Lucia Avenue intersection, and/or encase the water main in concrete in order to re-route the diagonal segment of the sewer main to the south and west to clear the wetland; or 2) Install a second PPS so that one PPS serves 4th Street properties and the other PPS serves Santa Lucia Avenue properties and avoids the installation of a sewer main within the 4th Street and Santa Lucia Avenue intersection.
 - f. Installation of the Solano Pump Station at the intersection of Solano Street and Butte Drive shall be used as an alternative to microtunneling beneath the wetland in this area. The Solano pump station shall convey the collected wastewater via force main routed south on Solano Street and east on Skyline Drive for discharge to a gravity sewer main at the intersection of Skyline Drive and Pecho Road.
 - g. The final pipeline alignment proposed along the Ravenna Avenue right-of-way between Los Osos Valley Road and Ramona Avenue shall re-sited to provide a minimum setback of 100 feet from the potential wetland areas mapped in Exhibit 5 attached to this report, unless further biological evaluations are submitted that document, to the satisfaction of the Coastal Commission Executive Director, that the area do not meet the LCP definition of wetlands, or that



alternative alignments are more environmentally damaging. To the degree that treatment plant facilities limit the ability to achieve the 100 foot setback requirement, the alternatives analysis shall be coordinated with condition 18h, below.

- h. PRIOR TO THE ISSUANCE OF THE PERMIT, the LOCSD shall submit, for review and approval by the Executive Director of the Coastal Commission, an analysis of the feasibility and environmental impacts of reconfiguring the treatment plant entrance and retention basin to provide a 100 foot setback from the potential wetland area identified by Exhibit 5, or evidence that the area is not a wetland as defined by the LCP. Final plans for the treatment plant shall relocate these facilities so they are set back 100 feet from the wetland unless such changes are shown to be infeasible or more environmentally damaging.

Any proposed changes to the revised plans shall be reported to the County of San Luis Obispo and the Executive Director. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

- 19. The West Paso standby power facility will be relocated to the LOCSD property at 8th and El Moro Streets.
- 20. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the County of San Luis Obispo and the Executive Director for review and approval a Groundwater Level Monitoring and Management Plan that details methods for measuring and responding to changes in groundwater levels that could affect wetland hydrology and habitat values. In accordance with the monitoring and action plan proposed by the LOCSD and attached as pages 30 and 31 of Exhibit 6, the Plan shall include provisions for monitoring groundwater levels, surveys for wetland plant and animals, monitoring wetland hydrology and water quality, appropriate response procedures should impacts be identified, annual reporting, and an education program to encourage property owners to convert septic systems into areas capable of groundwater recharge.

Building Heights

- 21. Building heights for structures shall conform to the following, as measured in accordance with LUO 23.04.122:
 - a. Treatment Plant: the buildings at the wastewater treatment facility will not exceed the following:
 - i. Administration Building – 18 feet
 - ii. Residuals Building - 35 feet
 - iii. Phase 2 Residuals Building – 24 feet
 - iv. Treatment Building - 38 feet
 - v. Future Building – 21 feet



- vi. Wave wall - Varies from 7 feet to 15 feet
- b. Standby Power Stations: buildings shall not exceed 14 feet.
- c. The building pad for the treatment plant facility shall not be higher than 78 feet msl.

Fire Safety

- 22. **Prior to construction**, the applicant shall provide an approved Fire Safety Plan from the South Bay Fire Department and prior to operation shall implement the requirements of the plan.
- 23. **Prior to occupancy** or final inspection, whichever comes first, the applicant shall obtain final inspection approval of all required fire/life safety measures.

Drainage and Erosion

- 24. An NPDES Construction Activity Storm Water Permit shall be obtained **prior to the onset of construction activities**. Appropriate BMPs, as established in the project NPDES Construction Storm Water Permit, shall be employed during project construction, which may include, but are not limited to, temporary sand bagging; construction of berms; installation of geofabric, and revegetation of areas by hydroseeding and mulching; actions for control of potential fuel or drill tailing release; the use of trench stabilizing and de-watering and requirements for disposal (i.e., location, quality) of water from dewatering activities. The NPDES permit shall apply to all proposed facilities, and shall address 50 to 100-year precipitation events to the extent feasible. The Pollution Prevention Plan portion of the NPDES permit shall be reviewed and approved by the County Engineering Department, the Executive Director of the Coastal Commission, and the RWQCB.
- 25. Grading, Drainage and Erosion Control Plan. Construction plans for the Tri-W site shall include a complete grading and drainage plan incorporating the recommendations of a geotechnical engineering evaluation. Measures to be considered for the mitigation of potential drainage, erosion, seepage and water quality impacts include, but are not limited to:
 - a. The incorporation of an on-site runoff collection system which includes energy dissipation, berms, temporary settling basins, and/or a silt/hydrocarbon separator for the collection and removal of hazardous materials and sediments.
 - b. The incorporation of an on-site drainage system to collect runoff from all impervious onsite services, including parking spaces, roads and buildings.
 - c. Surface runoff should be collected by curbs, gutters and drainage swales and conveyed to an appropriate point of disposal. Discharges of greater than five feet per second should be released through an energy dissipater or outlet.
 - d. The incorporation of sub-surface drains to intercept seepage and convey it to an acceptable point of disposal.



- e. Watering the site at least twice per day during construction, or more frequently if determined necessary by the LOCSD.
 - f. Re-vegetating portions of the site exclusive of paved areas as soon as reasonable following grading.
 - g. Incorporating rain gutters and downspouts for buildings.
 - h. Grading surfaces adjacent to buildings so that runoff is conveyed away from foundations and onto paved surfaces or underground collection pipes.
26. Project implementation shall include a long-term Erosion Control Plan. The plan shall include the treatment plant site, the collection system, and the disposal sites. The Erosion Control Plan shall identify erosion control practices to be implemented throughout the construction and operation of these facilities. These measures may include, but are not limited to, recompaction of soils; revegetation of disturbed areas; utilization of soil binding; or other methods for reducing short-term and long-term erosion. The Plan shall be reviewed and approved by the County Department of Planning and Building and the Executive Director of the Coastal Commission, and **shall be included in contractor bid and contract documents.**
27. In addition to the long-term erosion control plan cited above, plans for the Broderson disposal site shall designate access routes for review and approval by the U.S. Fish and Wildlife Service that intrude minimally into the landscape. Plans shall include prompt re-vegetation of disturbed areas.
28. Rehabilitation of disposal percolation fields shall be rotated so that no more than one field is under re-construction at a time.
29. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

Seismic and Geologic Safety

30. All proposed facilities shall be designed and constructed in accordance with UBC Seismic Zone 4 regulations.
31. **Prior to finalization of project design**, the LOCSD shall consult with the California Division of Mines and Geology (CDMG) to determine the Design Basis Earthquake for system components.
32. **Prior to construction**, a geotechnical investigation shall be carried out as part of final facility design by a certified engineering geologist. This geotechnical investigation shall include analysis of the proposed treatment plant site, the disposal system, and the collection system, where determined necessary by the LOCSD and governing regulatory agencies. The geotechnical investigation shall address the following issues:
- a. Design of facility foundations and walls such that potential impact associated with fault rupture onsite would be reduced to the extent feasible. Design measures for rapid repair of facilities shall be identified as necessary.



- b. The investigation shall determine onsite ground water levels, and identify soil layers that could be subject to liquefaction during a seismic event. Specific measures, such as excavation/recompaction of foundation areas, long-term dewatering, or utilization of foundation piles, should be identified as necessary to reduce potential impacts to a less than significant level.
 - c. The investigation shall identify the potential for settlement or lurching associated with seismic events. Specific measures, such as excavation/recompaction, shall be identified as necessary to reduce potential impacts to a less than significant level.
 - d. The investigation shall identify the potential for disruption of collection associated with fault rupture. Design measures for isolation and rapid repair of facilities shall be identified, where necessary.
 - e. The County Engineering Department shall review and approve the scope and findings of the geotechnical investigation, and shall review final project design to ensure incorporation of recommended measures.
33. Implementation of California Division of Mines and Geology (CDMG) Liquefaction Mitigation. Where determined necessary by geotechnical investigations, design of system components shall incorporate recommendations contained in the CDMG publication "Guidelines for Evaluating and Mitigating Seismic Hazards in California." Mitigation cited in this publication include recompaction of liquefiable soils and use of reinforced shallow foundations.

Hydrogeology

34. Prior to operation, the Los Osos Community Services District shall prepare and implement a comprehensive water management plan for the Los Osos groundwater basin that identifies management strategies for achieving a sustainable water supply. To prevent the wastewater treatment system from inducing growth that cannot be safely sustained by available water supplies, the District is prohibited from providing service to undeveloped parcels unless and until the Estero Area Plan is amended to incorporate a sustainable buildout target that indicates that there is water available to support such development.
35. In accordance with project revisions adopted by the LOCSD on June 17, 2004, the development activities authorized by this permit does not include the discharge of water harvested from the upper aquifer to Morro Bay or the Pacific Ocean. Any future proposal to discharge harvest water in such a manner requires an amendment to this permit, the application for which must be accompanied by evidence that other methods of disposal that retain the harvested water within the groundwater basin, such as agricultural storage and use, have been exhausted.
36. In order to maintain existing levels of groundwater recharge and protect coastal water quality, the LOCSD shall evaluate and, where appropriate, assist property owners in the implementation of opportunities to re-use existing septic tank effluent disposal systems (e.g., leach fields) to filter and percolate storm water runoff. **Prior to the connection of individual properties** the LOCSD shall, at the consent of the landowner, evaluate whether existing on site wastewater



disposal facilities have adequate capacity and depth to groundwater to accommodate and percolate stormwater runoff, and if so, provide site-specific recommendations on how to connect such a system.

Cultural Resources

37. **Prior to construction**, the applicant shall implement the Cultural Resources Treatment Plan prepared by Far Western Anthropological Research Group, Inc. as approved by the State Historic Preservation Office.
38. Undiscovered Resources. All cultural resources discovered **during construction** must be avoided in order to eliminate any potential impacts. All work in the vicinity of the suspected resource will stop and the proper authorities will be notified. Prior to restart of work, a qualified archaeologist will determine the significance of the resource. Suggested measures for mitigation shall be adhered to. If the resource is suspected to contain human remains, the County Coroner and an approved Native American consultant shall be contacted to determine the nature and significance of the find.
39. Archeological Monitoring. If a resource is discovered and an area is deemed potentially sensitive, archaeological monitoring will be required. The monitoring shall be conducted by a qualified archaeologist recognized as such by the County of San Luis Obispo with sufficient experience with local archaeological resources to make accurate determinations if cultural resources are exposed.
40. All notification procedures shall include the County of San Luis Obispo Planning Department and the Executive Director of the Coastal Commission.

Traffic

41. Construction Traffic Mitigation Plan. **Prior to construction**, the LOCSD shall prepare a construction traffic mitigation plan that identifies the location of equipment and trenches to be used; sequencing/phasing of installation; the location of materials and equipment staging areas; and proposed detour routes. The plan shall also provide for adequate emergency access, and routing of construction-related vehicles to minimize impacts to sensitive land uses. The plan shall also provide for the scheduling of construction and maintenance related traffic so that it does not create safety hazards to school children and other pedestrians.
42. Public Notice of Construction. The public shall be notified of potential obstructions and alternative access provisions. This notification may be accomplished by posting signs near the construction area **at least one week in advance of the commencement of construction**. In addition, information signs shall be posted on Los Osos Valley Road, with a phone number to call for questions. Phone inquiries shall be answered by a live public relations official, and not a pre-recorded message. Alternative access provisions and parking will be provided where necessary, with guide signs to inform the public. There will also be alternative pedestrian facilities provided to avoid obstruction to pedestrian circulation.



43. **Prior to construction**, the applicant shall obtain an encroachment permit from the County for all work to be done in the County rights-of-way.

Air Quality

44. **Equipment Emission Control Measures.** **During construction**, the applicant shall fully implement CBACT for the highest emitting piece of diesel-fired heavy equipment used to construct each major component of the proposed project. It is expected that tandem scrapers or tracked tractors would be the highest emitters. CBACT includes:
- a. Maintain all construction equipment in proper tune according to manufacture's specifications.
 - b. Fuel all off-road portable diesel equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).
 - c. Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines.
45. **Dust/PM10 Control Measures.** **During construction**, dust generated by construction activities shall be kept to a minimum by full implementation of the following measures:
- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease;
 - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the morning and after work is completed for the day and whenever wind exceeds 15 miles per hour;
 - c. Stockpiled earth material shall be sprayed as needed to minimize dust generation;
 - d. During construction, the amount of disturbed area shall be minimized, and onsite vehicle speeds should be reduced to 15 mph or less;
 - e. Exposed ground areas that are planned to be reworked at dates more than one month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established;
 - f. After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated immediately by watering or revegetating or spreading soil binders to minimize dust generation until the area is paved or otherwise developed so that dust generation will not occur;
 - g. Grading and scraping operations shall be suspended when wind speeds exceed 20 mph (one hour average);



- h. All roadways, driveways, and sidewalks associated with construction activities should be paved as soon as possible. In addition, building and other pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
46. Activity management techniques. **During construction**, the following additional measures related to construction emissions shall be implemented:
- a. A comprehensive construction activity management plan prepared with APCD staff and that is approved prior to the start of any construction activities that is designed to minimize the amount of large construction equipment operating during any given time period.
 - b. Construction trips should be scheduled during non-peak hours to reduce peak hour emissions.
 - c. The length of the construction work day period should be limited, if necessary.
 - d. Construction activities should be phased if appropriate.
 - e. An Authority to Construct must be submitted to the APCD for the proposed standby diesel generators located at the pump stations, if the engines are greater than 50 hp.
 - f. Prior to any grading activities, a geologic evaluation will be necessary to determine if naturally occurring asbestos is present. If naturally occurring asbestos is found the applicant must comply with all requirements outlined in the Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations. These requirements may include but are not limited to 1) an Asbestos Dust Mitigation Plan which must be approved by the District before construction begins, and 2) an Asbestos Health and Safety Program will also be required for some projects. Applicant shall refer to the APCD web page at <http://www.slocleanair.org/business/asbestos.asp> for more information regarding these requirements.

Odor Control

47. The Los Osos wastewater project (including collection, treatment and disposal) shall be operated in a manner that prevents the emission of nuisance odors that are perceptible at or beyond the property lines of the project site, consistent with the requirements of Health and Safety Code Section 41700. Nuisance odors, problems with the operation of the wastewater treatment plant or dust complaints shall be directed to the operators of the wastewater treatment plant. The San Luis Obispo County Air Pollution Control District (SLOAPCD) will also respond to complaints and communicate immediately with the operators of the wastewater treatment plant. All complaints, breakdowns, or parameter exceedences shall be reported to the SLOAPCD within four (4) hours of receipt or event.
48. An Odor Control Plan shall be submitted for review and approval of the San Luis Obispo County Air Pollution Control District prior to building permit issuance which shall be incorporated as conditions of the permit issued by the SLOAPCD for the construction and operation of the Los



Osos wastewater project. The Odor Control Plan shall incorporate the provisions of condition 44 and shall contain a Complaint Response Plan to address at least the following:

- A public outreach plan, including operator training in the handling of complaints; a program for informing the public regarding the complaint process (see condition 44); periodic neighborhood surveys of performance and responsiveness to complaints; and, a complaint hotline phone number. This public outreach plan shall be in place upon startup;
- An odor point identification map, which will aid the wastewater system operators and the SLOAPCD by identifying potential odor sources, a description of the odor point. This identification map and related information shall be completed within the first 3 months of startup;
- A list of immediate responses or actions to be taken to complaints, including, but not limited to:
 - The upstream addition of ferrous chloride (or other) injection system adjustments;
 - On-site odor checks to identify odor sources or system malfunctions, neighborhood complaint patrol and actions to be taken;
- A Contingency Action Plan detailing the methods to which odor sources will be studied and a response action plan to control odors over the long term. This Plan shall be in place upon startup. Possible responses include, but are not limited to, the following:
 - Providing additional “negative air” containment or recovery system areas;
 - Additional treatment containment enclosure;
 - Additional or improved odor control, dispersal and/or air movement at pump stations, wet wells and the wastewater treatment plant;
 - Additional study of odor sources and possible solutions, which may include a dilution to threshold measurement for each potential odor source using the Bay Area Air Quality Management District’s procedure outlined in their Regulation 7 “Odor Substances” 7-400 et seq and “Manual for Procedures”, Volume IV, ST-1, ST-8, ST-11, ST-16 and ST-22 or SLOAPCD equivalent.

Noise

49. **Construction** will be limited to the hours of 7 a.m. to 6 p.m. on weekdays, and 8 a.m. to 5 p.m. on weekends.
50. The construction contractor shall agree to the following upon hire:
 - a. Equipment shall be fitted with mufflers, in good operating condition and fitted with factory standard silencing features;
 - b. A hauling route and staging plan shall be submitted to the LOCSO which is designed to minimize noise impacts with sensitive land uses;



- c. When available and proper for the task, contractor shall use electric versus diesel equipment;
 - d. Portable noise barriers shall be employed where necessary to minimize noise impacts;
51. Design of the treatment plant shall incorporate housing for pumps, aerators and other accessories generating noise in excess of 50 dB Leq.
52. Operation and maintenance plans for the treatment facility will ensure that all pumps and aerators are kept in proper working order.
53. All standby power generators and pump stations shall be housed in concrete block buildings fitted with noise baffling exhaust and intake venting.

Public Health, Safety and Services

54. A Hazardous Materials Management Plan shall be developed and submitted to the County of San Luis Obispo Health Department for approval **prior to construction**. The plan shall identify hazardous materials utilized onsite and their characteristics; storage, handling and training procedures; and spill contingency procedures. Additionally, the Plan should address fuel storage at the pump station sites.
55. Project implementation shall be designed to conform to energy efficiency requirements outlined in Title 24 of the California Code. Additional measures to be shown on construction plans include:
- a. Provide an on-site lunch room with refrigeration and food preparation (i.e., microwave) appliances to reduce daily trips to and from the treatment facility;
 - b. Use of double paned windows in office area where interior heating/air conditioning will occur;
 - c. Use of energy efficient interior lighting where applicable.
56. **Prior to the operation** of the wastewater treatment system, the Los Osos CSD shall either 1) secure a contract for bio-solids disposal with a land disposal or recycling facility or 2) construct a bio-solids recycling facility that satisfies Title 40, Section 503 of the Code of Federal Regulations.
57. The Los Osos CSD shall mitigate the potential temporary loss of water for fire fighting that may occur as a result of construction activities by either 1) acquiring a water tender, to the satisfaction of the Fire Chief, or 2) through some other equivalent means as determined by the Fire Chief and the CSD Board.
58. All contractors shall comply with relevant provisions of CAL-OSHA CAC Title 8 regarding the provision of safety and rescue equipment, to the satisfaction of the Fire Chief.



Visual Resources

59. **At the time of construction**, retaining walls, sound walls, and utility facility housing shall be constructed in colors and tones compatible with the surrounding environment. Landscaping that will either screen from in front or grow over from above any fencing shall be established prior to final inspection.
60. **Prior to the commencement of treatment plant construction** the applicant shall provide an exterior lighting plan. The plan shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from public roads. All lighting poles, fixtures, and hoods shall be dark or neutral colored. This plan shall be implemented **prior to final inspection or occupancy**, whichever occurs first. Security lighting shall be shielded so as not to create glare when viewed from public roads. Light fixtures internal to the treatment facility shall not exceed 25 feet in height; external lights in the public area (e.g., dog park, multi-use path) shall not exceed 20 feet in height.
61. **At the time of application for construction permits**, the applicant shall submit architectural elevations of all proposed structures to the Department of Planning and Building and to the Executive Director of the Coastal Commission for review and approval in consultation with the Environmental Coordinator. The elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including vegetation, rock outcrops, sand dunes, etc. Darker or neutral, non-reflective, earth tone colors shall be selected for walls and buildings, and darker green, gray, slate blue, or brown colors for the roof structures.
62. Construction Staging Area. For all aspects of the project, construction staging areas shall be located away from sensitive viewing areas to the extent feasible. **Before construction activities begin**, an area for construction equipment storage away from direct views of sensitive viewing corridors (e.g. residences and major roads in the project area) shall be designated.
63. Landscaping Plan. A final landscaping plan shall be prepared for the entire project site and approved by the County and the Executive Director of the Coastal Commission **prior to building permit issuance** for the Tri-W site. The landscaping plan shall emphasize native plant materials and shall include sufficient planting to screen views of the project from nearby roads and residential developments. The goal for the landscaping plan shall be to visually integrate the project into the community by creating a park-like setting, while preserving and enhancing existing views.
64. **Screen Planting** - Trees and shrubs shall be planted along the perimeter of the wastewater treatment facility **prior to facility operation**. To provide effective screening, a size and variety of evergreen trees shall be planted which will reach a minimum height of 25 feet within five years. Large shrubs shall be included to provide lower height screening. Palm trees, Italian



Cypress and other distinctly-shaped non-native plants shall not be used. The screen planting shall be designed to appear as a naturally appearing swath of vegetation.

Biological Resources

65. Where construction will necessitate disturbance in undeveloped lots and other potentially sensitive areas, a **pre-construction** survey will be conducted to assess and minimize any potential impacts.
66. Loss of Wintering Monarch Butterfly Roost Sites. The project proponent shall avoid habitat where feasible. A qualified monarch butterfly specialist will conduct preconstruction surveys for the monarch butterfly **during the months of October to February and conduct surveys** within 0.5 miles of the proposed access road. Potential roost sites that could be affected during construction will be fenced.
67. Loss of Raptor Habitat. The project proponent will conduct a preconstruction survey for nesting raptors. Depending on the timing of construction, the project proponent will conduct a preconstruction survey **during spring or early summer (April to early July)** to determine whether nesting raptors or species protected by State and/or Federal law are present on or within the project area. Winter surveys are also recommended and should be done by a qualified wildlife biologist. If the survey results indicate that nesting raptors or protected species are present on or within the project area, the nest tree or area will be fenced or otherwise demarcated and a 500-foot no-disturbance buffer will be established until the nesting activity is completed and the young have fledged. The distance and placement of the buffer area will be determined in consultation with the CDFG. Only after nesting activities have ceased will construction be allowed to continue. All potentially suitable nesting trees will be removed prior to the breeding season.
68. Loss of Coastal Scrub Habitat. Project implementation would result in direct or indirect disturbance or potential take of several federal and state listed species. **Prior to construction**, authorization is required for this disturbance or potential take from both the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) as follows:
 - a. USFWS. Authorization for take by USFWS would require formal consultation with USFWS pursuant to section 7 of the Endangered Species Act.
 - b. CDFG. When applicable, authorization for take by CDFG would require a Memorandum of Understanding (MOU) and Management Authorization (MA) pursuant to Section 2050 et seq. of the California Fish and Game Code. Development of a MOU/MA would be based upon the Section 7 USFWS consultation discussed above.
 - c. Acquire Additional Habitat. As part of the consultation efforts described above, the District will acquire additional habitat sufficient to compensate for the loss of habitat of the Morro shoulderband snail, Morro Bay kangaroo rat, Morro Bay blue butterfly, and other species dependent upon the coastal scrub habitat due to the direct impacts of the project. The land acquired should have the following qualities:



- i. The land should be a parcel or group of parcels containing approximately 40 acres. The preferred site for mitigation is the northerly Broderson parcels.
 - ii. The land should be habitat in or contiguous to the proposed critical habitat area as designated by the USFWS. Ideal land that meets this criteria is located around the community of Los Osos in the area studied for the greenbelt program by the Land Conservancy.
 - iii. Any disturbed portion of the land should be capable of restoration to a native habitat. This would mean that the soils have not been removed or that no fill had been placed on the site that is unsuitable for the native plantings (other than small amounts). The land should be free of structures or debris, or capable of being cleared of any structures.
 - iv. The land should have primarily aeolian sand deposits; be in a stabilized condition (not mobile); have an open canopy; be of the appropriate aspect and other meteorological conditions.
 - v. The land should be granted to an appropriate agency or conservation organization in perpetuity with deeded guarantees of non-development or transfer (unless to another like organization). The protection of the land may allow for some passive public recreation activities, such as hiking, scientific investigation, and low-impact education.
- d. Restoration. **After construction of the percolation field**, the District should restore the land so that it functions as suitable habitat for many of the local species of plants and wildlife described on pages 247 – 272 of the EIR whose existence is endangered or of concern. Restoration of the land should include the following:
- i. Removal of invasive exotic plant species. This may mean removal of all plants by grading, or a program of hand labor, depending upon the condition of the land. If the amount of invasives is relatively small, the work should leave as much of the existing native vegetation intact.
 - ii. Removal of structures or debris.
 - iii. Regrading of any unnatural mounds, holes or berms previously created on the site.
 - iv. A planting program of a mixture of indigenous plant species that serve to restore the site *and* serve multiple species' needs, especially the Morro shoulderband snail, Morro Bay blue butterfly, Black legless lizard, and potential future re-introduction of the Morro Bay Kangaroo Rat. This will include Dune Lupine for the Morro Bay blue butterfly. The final planting program should be developed in consultation with CNPS, CDFG and USFWS.
- e. An ongoing maintenance and observation program will be a component of the HCP. The LOCSD will contribute \$10,000 per year towards maintenance and restoration of the Broderson mitigation site.



69. Minimize Disturbance of Coastal Scrub, Chaparral, and Coast Live Oak Woodland Habitats Located Around the Perimeter of the Percolation Field Sites During Construction. Minimize, to the extent feasible, the amount of disturbance of land beyond the actual area of development. This will be accomplished by identifying, **prior to construction**, minimum activity area required, and establishing a physical construction limit beyond which equipment and storage of material would not extend.
 - a. Clearly identify and mark the perimeter of the proposed percolation field construction zone prior to and during construction onsite with highly visible temporary fencing.
 - b. Restrict the use of all heavy equipment and vehicles to areas located inside of the identified construction zone throughout the duration of construction.
 - c. Clearly identify and mark the proposed access route to the construction zone of the percolation field, and limit all construction traffic to areas located within the identified access route.
 - d. Leave areas of undisturbed habitat between portions of the percolation field, rather than clearing a single, contiguous area.
70. Relocate Sensitive Species. Qualified biologists should remove as many Morro shoulderband snails as practicable from any area of proposed disturbance. These should be relocated nearby to suitable habitat.
71. Restore Sensitive Habitats Disturbed **During the Construction Phase** of the Percolation Fields. Following completion of construction of the proposed percolation fields, revegetate all areas located within or around the area that previously contained native vegetation and that were disturbed during construction.
 - a. Revegetate only with appropriate indigenous native vegetation. At a minimum, the structure and composition of habitats restored should reflect pre-project site conditions or better.
 - b. All exotics that escape cultivation should be removed on a regular basis.
 - c. All plantings should be grown from native parent stock collected onsite, and will be propagated by a native plant nursery specialist. In addition, the health and maintenance of all replacement vegetation should be monitored for a sufficient duration and frequency to ensure successful establishment of the vegetation.
72. Control Introduction of Invasive Exotic Plants. To control introduction of invasive exotic plants on site, implement the following measures **during construction** and incorporate into the design guidelines of the proposed percolation fields, as appropriate.
 - a. Use only clean fill material (free of weed seeds) within the construction zone of the proposed project.
 - b. Thoroughly clean all construction equipment prior to being moved onto and used at the site.
 - c. Prohibit planting or seeding of disturbed areas with nonnative plant species;



- d. Control the establishment of invasive exotic weeds in all disturbed areas. Remove existing stands of invasive exotic plants, including but not limited to veldt grass, pampas grass and ice plants, in order to limit their spread.
73. Avoid or Minimize Disturbance of Special-Status Plants Located Within and Adjacent to the Perimeter of the Project Site Construction Zone. Implement the following measures **prior to and during construction** to avoid or minimize unnecessary disturbance of special-status plants occupying the vicinity of the project site.
- a. Retain a qualified botanist to conduct focused surveys for special-status plant species during the appropriate flowering periods for the various species that are known to occur or have potential to occur within the construction zone of the project site, based on the presence of suitable habitat.
 - b. Clearly map and identify each individual or groups of special- status plants observed during the focused survey with highly visible flagging. Morro Manzanita located in the southern portion of the Broderson site should be marked with highly visible flagging and completely avoided.
 - c. Provide instruction to construction personnel on avoiding unnecessary disturbance of areas marked with flagging and identify the locations of all groups of special-status plants.
 - d. Transplant Individual Special-Status Plants Located Within the Construction Zone of the Leach Fields. Individual special-status plants that are identified as occurring within the proposed construction zone should be identified. If it is determined that avoidance or disturbance of the identified plants is not feasible, implement transplanting operations for the identified species. It should be noted that the success of transplanting is highly dependent on the specific taxon. Transplanting of some species currently occupying the site may not be as successful as for others, or may fail entirely. Therefore, prior to implementing these operations, previous case studies should be researched to determine which plants are expected to have reasonable opportunities for survival following transplantation, and determine which techniques have been successful previously. If transplanting is then determined to be a viable option for some identified special-status plants, implement the following measures:
 - i. Avoid disturbance of the root system of each plant during transplanting.
 - ii. A plant should only be moved to a habitat that contains site conditions similar to the location previously occupied by each plant.
 - iii. Closely monitor the success of transplanted species.
74. Avoid or Compensate for Loss of Morro Bay Kangaroo Rat Habitat. Due to the limited and localized distribution of the Morro Bay kangaroo rat, the project proponent will make every effort to avoid the loss of suitable Morro Bay kangaroo rat habitat. **Preconstruction** surveys will be conducted by a qualified wildlife biologist. These surveys may include a combination of techniques. The project proponent will work with CDFG and USFWS to determine the best



means of surveying for the kangaroo rat. The project proponent will compensate for loss of habitat in an area within the limited range of the Morro bay kangaroo rat and of equal or better quality than the habitat that will be impacted (see BIO-4). Selection of a compensation site will be made by mutual agreement of the project proponent, CDFG, USFWS, and the entity or agency responsible for managing the compensation site. [Mitigation BIO-14] Where avoidance is not feasible, the project proponent shall ensure that the site is not adversely affected by human disturbance, domestic animal disturbance, or the use of substances toxic to the Morro Bay kangaroo rat.

75. Avoid or Compensate for Loss of Morro Bay blue Butterfly Habitat. Where feasible, the project proponent will avoid Morro Bay blue butterfly habitat. Surveys for Morro Bay blue butterfly presence will be conducted by a qualified wildlife biologist **in late April or early May**. If the habitat is likely to be disturbed during construction, fencing will be placed around areas of suitable habitat. Where avoidance is not feasible, the project proponent, will compensate for the loss of potential Morro Bay blue butterfly habitat by setting aside an area of equal or better quality than the habitat to be impacted (see Mitigation BIO-4). The project proponent will ensure that the compensation area is not adversely affected by human disturbance, vandalism, off-road vehicle use, or pesticide application. Selection of a specific compensation site will be made by mutual agreement between the project proponent, the California Department of Fish and Game, the United State Fish and Wildlife Service, and the agency or entity responsible for managing the compensation site.
76. **Prior to providing wastewater treatment service to undeveloped parcels**, the LOCSD, in coordination with the California Department of Fish and Game (CDFG), the US Fish and Wildlife Service (USF&WS), San Luis Obispo County and the California Coastal Commission shall prepare and implement a Habitat Conservation Plan (HCP) for the long-term preservation of habitat remaining within the Los Osos Greenbelt, including habitat remaining on individual vacant lots. The HCP shall:
 - identify the habitat resources and the quality of those resources on the remaining vacant properties within the South Bay Urban Area and Los Osos Greenbelt;
 - specify measures to avoid and minimize impacts to ESHA from buildout of the Service area, and to mitigate unavoidable impacts through acquisition, protection, and/or restoration of equivalent habitat within the planning area;
 - implement such measures through an amendment to the Estero Area Plan that integrates the HCP, as approved by the US Fish and Wildlife Service and Department and Fish and Game, with LCP standards for development in the South Bay Urban Area. This LCP amendment must become fully effective, and all permits required by state and federal Endangered Species Acts shall be issued, before LOCSD makes any final commitment to provide wastewater treatment service to undeveloped properties.

The range of potential conservation programs to be considered in the HCP shall include, but not be limited to the following:



- a. New development programs and standards that maximize preservation of sensitive biological resources in the Los Osos through:
 - i. Transfer of development credits
 - ii. Clustering
 - iii. Avoidance of sensitive resources in site design
 - iv. Changes in density and land use
 - v. Incorporation of open space into the design of new development
 - b. Programs aimed at facilitating coordination among agencies and organizations involved in management and conservation/preservation of sensitive resources, including USF&WS, CDFG, California Coastal Commission, San Luis Obispo County, the LOCSD, MEGA, NEP, Land Conservancy of San Luis Obispo County, and others;
 - c. The creation of a land bank program to facilitate the purchase of properties with high quality habitat within the Greenbelt, to be repaid over time from fees on new building permits; and,
 - d. Programs for the acquisition of properties within the Greenbelt with significant habitat resources.
77. **Prior to facility operation**, the applicant shall enter into a Memorandum of Agreement with the County regarding the permit requirements for the installation of lateral lines. This Agreement shall include the mitigation procedures contained in the “Lateral Line Installation – Biological Resources & Mitigation” report dated 10-16-02.
78. This permit is valid for a period of 36 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050.
79. **Prior to construction**, applicant shall apply to merge lots 1 through 5 of Town of El Moro.
80. Prior to occupancy and operation of the wastewater treatment facility, the applicant shall record the voluntary lot merger.
81. The applicant shall as a condition of approval of this development plan defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this development plan or the manner in which the County is interpreting or enforcing the conditions of this development plan, or any other action by a third party relating to approval of implementation of this development plan. The applicant shall reimburse the County for any court costs and attorney’s fees which the county may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.



Service Area And Capacity Conditions

82. No Guarantees of Development Approvals. Approval of this permit, or any method of financing the project utilized by the LOCSD (e.g., the established assessment program), does not guarantee Coastal Commission or local government approval of any new or intensified uses within the service area. All new development proposals must be reviewed for consistency with the San Luis Obispo County certified Local Coastal Program (and/or the California Coastal Act, as applicable); such review shall consider, among other issues, the environmental impacts of the new development, including the impacts associated with the installation of lateral connections necessary to tie into the approved collection system. **WASTEWATER TREATMENT SERVICE SHALL ONLY BE PROVIDED TO DEVELOPMENTS THAT HAVE OBTAINED THE REQUIRED COASTAL DEVELOPMENT APPROVALS IN A MANNER CONSISTENT WITH SUCH APPROVALS.**

PRIOR TO THE ISSUANCE OF THE PERMIT, the permittee shall submit, for the Executive Director review and approval, a public notice to all property owners of record within the service area that includes a copy of this condition, and an explanation of its effect upon the ability to obtain wastewater treatment service for future development.

PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, said notice shall be mailed to all property owners within the service area, or noticed in three local newspapers and included in public information handouts provided by the County.

82. **Service Area.** The approved service area for the wastewater treatment facilities corresponds to the area within the Urban Service Line designated by the San Luis Obispo certified Local Coastal Program (LCP). **PRIOR TO THE ISSUANCE OF THE PERMIT**, the permittee shall submit, for Executive Director review and approval, a revised service area map which eliminates all parcels beyond the designated Urban Service Line (USL) from the project service area, accompanied by a revised set of collection system plans that eliminate any collection facilities rendered unnecessary by the reduced service area.

Future additions to the wastewater treatment service area shall require a separate coastal development permit, and must be proceeded or submitted concurrently with an LCP amendment that incorporates the proposed service area expansion within the Urban Service Line designated by the LCP. The permittee shall not cause any property outside of the authorized service area to be assessed for benefits received, nor enter into any agreement to serve any properties outside of the service area, until an LCP amendment incorporating such properties into the service area has taken effect.

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Background

Much of the South Bay urban area, which includes the residential communities of Los Osos, Baywood



Park, and Cuesta-by-the-Sea, was platted in the late 19th Century, with approximately 5,000 small lots intended for summer homes and retreats. Many of these lots are only 25 or 37 feet in width and 125 feet in length. As the resident population increased from approximately 600 in 1950 to the current level of approximately 15,000, so has the number and intensity of septic systems.

The Central Coast Regional Water Quality Control Board (RWQCB) and other health agencies became concerned with the use of individual disposal systems (i.e., septic systems) in the early 1970's when it was identified that the depth to groundwater is shallow enough in some areas to flood leach fields in wet weather, posing adverse impacts to Morro Bay associated with surface flow and lateral seepage of inadequately treated wastewater. Significant concern was also raised regarding the impacts of septic systems on groundwater resources, particularly the fact that the Los Osos area obtains its water supply from groundwater aquifers. In the Baywood Park area, few of the systems can meet the RWQCB's criteria for separation between the bottom of a leach field and ground water. Furthermore, many of the smaller lots are too small for leach fields, and as a result, utilize deeper seepage pits which may discharge directly to ground water.

To address these concerns, an interim Basin Plan adopted by the RWQCB in June 1971 contained a provision prohibiting septic system discharges in the area after 1974. In September 1983, the RWQCB adopted Resolution 83-13, also prohibiting sewage disposal systems discharges, which took effect in 1988.

In 1990, the Coastal Commission approved an amendment to the Estero Area Plan allowing a wastewater treatment plant proposed by the County Engineering Department on rural agricultural land off Turri Road. The County later abandoned this site in favor of the Pismo site, located at South Bay Boulevard and Pismo Avenue, on which the County approved a wastewater treatment plant in 1997. The locally approved coastal development permit authorizing the County project was appealed to the Coastal Commission, and the Commission conducted four public hearings on the project between 1997 and 1998. The Commission continued action on the County project, among other reasons, to provide the community with an opportunity to pursue alternatives.

The site selection process involves a long history of alternatives analyses and environmental reviews. A significant juncture in this process was the 1998 formation of the Los Osos Community Services District (LOCSD). In November 1998, the Coastal Commission declined to approve a permit for the treatment system proposed by San Luis Obispo County, among other reasons, to provide an opportunity for the newly formed LOCSD to pursue alternatives. The alternative favored by the community at that time was a downtown ponding system that would also provide centrally located parks and community amenities.

The LOCSD subsequently rejected the ponding system due to insufficient data demonstrating effective nitrogen removal, and turned to a treatment system that would maximize opportunities to locate facilities below ground. This became the preferred project in an Environmental Impact Report (EIR) certified by the LOCSD on March 1, 2001. Following EIR certification, the LOCSD pursued the LCP amendment required to establish wastewater facilities as an allowable use on the proposed Tri-W site. This amendment was approved by the Commission in August 2002, despite the presence of Environmentally Sensitive Habitat Areas (ESHA) and potentially feasible alternatives, on the basis that



the water quality benefits of the amendment were, on balance, more protective of significant coastal resources.

On October 21, 2003, San Luis Obispo County approved a coastal development permit for the construction and operation of the wastewater system. This action was appealed to the Commission, and on April 15, 2004, the Commission determined that the appeals raised a substantial issue. Some of the concerns expressed by the Commission at that hearing included the status of the HCP, missing information regarding potential wetland impacts, and the potential feasibility and environmental benefits of relocating the treatment plant to a fallow agricultural parcel known as the Andre site. Following the April 15, 2004 hearing, the Commission staff has worked with the District to resolve these and other LCP issues, as detailed in correspondence attached as Exhibit 6 and the findings of this report.

B. Project Location and Description

The project involves a wastewater collection, treatment, and disposal system, and associated facilities, to serve the communities of Cuesta-by-the-Sea, Baywood Park, and Los Osos, as shown by maps and plans attached as Exhibit 2. Construction is planned to begin in 2004 and occur in two phases over a 24-month period. Individual property owners will be responsible for de-commissioning their septic tanks⁵, installing lateral connections to the collection system, and replacing plumbing fixtures with water conserving fixtures.

Treatment Site and Facilities

The 11-acre treatment plant site is located at the intersection of Ravenna Avenue and Los Osos Valley Road in a central downtown location adjacent to the public library and across the street from the Community Center. Prior to being designated for treatment facilities, the site was planned for commercial retail, office, and professional uses. The site was selected by the LOCSD, among other reasons, to minimize collection and distribution system costs.

The Hybrid Extended Aeration Treatment Plant will provide tertiary treatment, and have the capacity to process an average annual dry weather flow of 1.4 million gallons per day. The primary treatment building is partly underground, and daylights to a courtyard in the northwest area of the parcel that contains an operations building, a residuals building, and above ground bio-filters. The treatment area will be surrounded by a landscaped berm and screening walls, and will occupy 4-5 acres. Vehicle access will be gained by an extension of Ravenna Avenue, with adjacent parking.

The surrounding area provides a combination of drainage facilities and open space and recreation amenities. The occasionally large volumes of runoff that enter the site from under Los Osos Valley Road will be collected in a fenced sedimentation basin, with overflow to a field that provides stormwater percolation during rain events, and a large open space recreation area in dry weather. Other public use areas will include a dog park, amphitheater, tot lot, picnic area, parking lot, seating areas, and

⁵ Septic tank de-commissioning involves pumping the tank out, removing the top of the tank and backfilling the tank with sand or slurry.



pedestrian/bicycle trails including a Class I bicycle path along Los Osos Valley Road.⁶ Lighting is limited to safety/security lighting at the treatment plant and selected walkways. Landscape plans will incorporate native, drought-tolerant buffer planting around entire site, and a dry stream feature. A fenced retention basin in the northwest corner of the site is designed to accept runoff expected from a 50-year storm, and provide up to 8 hours of emergency storage in the event of an overflow from the treatment plant.

Collection System and Septic System Management

Wastewater is proposed to be collected from the RWQCB prohibition area through a series of gravity and pressurized sewer lines totaling approximately 197,000 feet. The collection system also includes seven pump stations and 12 pocket pump stations. The LOCSD will operate a Septic System Maintenance and Management Program (SSMP) for all areas within the Urban Reserve Line and outside the prohibition area. Septage received from the SSMP service area will be received and treated at the treatment plant. Sludge produced from the treatment process will be hauled to approved sludge disposal sites.

Disposal System

Disposal of the highly treated wastewater effluent will take place in percolation sites (leach fields) located throughout the community that have more than a 30 foot depth to groundwater, using horizontal perforated pipe, vertical disposal wells, and landscape irrigation. The largest of these leachfields is located at Highland Drive and Broderson Avenue (the Broderson site), where 50% of the effluent (up to 800,000 gallons per day) will be discharged.

Groundwater Monitoring and Management

To prevent the disposal system from resulting in groundwater mounding (i.e., localized increases in groundwater levels), the project approved by the County includes six harvest wells to withdraw up to 650,000 gallons per day from the upper aquifer. This County permit authorized the harvest water to be managed in the following ways: blended with lower aquifer water as part of the community's drinking water supply; used for landscape irrigation; disposed of within approved percolation sites; routed to the treatment plant for additional treatment; or discharged to Morro Bay using two existing stormwater drainage pump stations.

D. Environmentally Sensitive Habitat Areas

1. LCP ESHA Standards

Section 23.08.288 of the Coastal Zone Land Use Ordinance states:

⁶ In an effort to fulfill the public use objective that contributed to the LOCSD's selection of the site, the LOCSD has agreed to add the amphitheater, tot lot, picnic area and parking lot to the site plan approved by the County, as required by Special Condition _.



Public Utility Facilities: The requirements of this section apply to Public Utility Facilities where designated as S-13 uses by Coastal Table 'O', Part I of the Land Use Element. Public Utility Facilities for other than electric and communications transmission and natural gas regulation and distribution, require Development Plan approval pursuant to Section 23.02.034 (Development Plan).

...

- d. *Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

LCP Amendment 3-01 established the following Planning Area standards for the two land use designations assigned to the treatment plant site:

COMMERCIAL RETAIL, PUBLIC FACILITIES: *The following standards apply only to lands within the Commercial Retail, Public Facilities land use categories.*

1. *Limitation on Use.*

- a. *The following uses shall be allowed only in the event that the site is acquired by a public agency or special district and committed to public wastewater treatment facility uses: outdoor sports and recreation, passive recreation, public assembly and entertainment, temporary events, water wells and impoundments, outdoor retail sales, offices, pipelines and transmission lines, and public utility facilities.*

...

OFFICE AND PROFESSIONAL, PUBLIC FACILITIES: *The following standards apply only to lands within the Office and Professional, Public Facilities land use categories.*

1. *Limitation on Use. The following uses shall be allowed only in the event that the site is acquired by a public agency or special district and committed to public wastewater treatment facility uses: outdoor sports and recreation, passive*



recreation, public assembly and entertainment, temporary events, water wells and impoundments, outdoor retail sales, offices, pipelines and transmission lines, and public utility facilities. Otherwise, allowable uses shall be limited to all uses allowable in the Office and Professional land use category per Table O, Framework for Planning, Coastal Zone.

LCP 3-01 also established the following Area Plan standard for construction and operation of a wastewater treatment plant on the Tri-W site:

Environmental Mitigation. The land use/coastal development permit for development of a wastewater treatment plant and related facilities shall require implementation of the following mitigation measures as described on the listed pages in the Final Environmental Impact Report for the Los Osos Community Services District Wastewater Facilities Project (FEIR), SCH# 99111-3, certified on March 1, 2001. Some of the following mitigation measures apply to other components of a proposed wastewater facilities project, as the entire project is expected to be processed under a single land use/coastal development permit.

- a. Geology. Mitigation measures GEO-1 through GEO-9 on pages 112-113, Part II.*
- b. Hydrogeology. Mitigation measures H-1 through H-3 on pages 114, Part II.*
- c. Drainage. Mitigation measures WR-1 through WR-3 on pages 115, Part II.*
- d. Cultural Resources. Mitigation measures C-1 and C-2 on page 116, Part II.*
- e. Traffic. Mitigation measures TR-1 and TR-2 on page 117, Part II.*
- f. Air Quality. Mitigation measures AQ-1 through AQ-4 on pages 118-119, Part II.*
- g. Noise. Mitigation measures N-1, N-2, N-4, and N-5 on page 120, Part II.*
- h. Public Health, Safety and Services. Mitigation measures P-1 through PS-5 on pages 120- 121, Part II*
- i. Visual Resources. Mitigation measures AES-1 through AES-5 on pages 121, Part II.*
- j. Biological Resources. Mitigation measures BIO-1 through BIO-16 on pages 121-128, Part II.*

The specific requirements for the Los Osos Wastewater Treatment facility cited by the above LCP standard are attached to this report as Exhibit 4.

Other relevant ESHA standards include:



23.07.170 Environmentally Sensitive Habitats:

The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

a. Application content. A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:

(1) Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the resource and a program for monitoring and evaluating the effectiveness of the mitigation measures.

(2) Recommends conditions of approval for the restoration of damaged habitats, where feasible.

(3) Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.

(4) Verifies that applicable setbacks from the habitat area required by Sections 23.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.

b. Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:

(1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

(2) The proposed use will not significantly disrupt the habitat.

c. Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.

d. Development standards for environmentally sensitive habitats:

(1) New development within or adjacent to the habitat shall not significantly disrupt the resource.



- (2) *New development within the habitat shall be limited to those uses that are dependent upon the resource.*
- (3) *Where feasible, damaged habitats shall be restored as a condition of development approval.*
- (4) *Development shall be consistent with the biological continuance of the habitat.*
- (5) *Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)*

23.07.176 Terrestrial Habitat Protection:

The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

- a. *Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.*
- b. *Terrestrial habitat development standards:*
 - (1) *Revegetation. Native plants shall be used where vegetation is removed.*
 - (2) *Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.*
 - (3) *Trails. Any pedestrian or equestrian trails through the habitat shall be shown on the site plan and marked on the site. The biologist's evaluation required by Section 23.07.170a shall also include a review of impacts on the habitat that may be associated with trails.*

2. Analysis

a. Impacts of Project Construction

The stabilized sand dunes surrounding Morro Bay that comprise Los Osos are home to a variety of unique coastal habitats. The unique sandy soils are a defining feature of the native landscape, which includes distinct communities of Central dune scrub and maritime chaparral habitat. The California Department of Fish and Game (CDFG) has classified Central dune scrub as having “highest inventory



priority”, and designated the dune habitats of Los Osos as a “Significant Natural Area”⁷.

Construction of the project will result in the loss of 7.5 acres of Coastal dune scrub habitat at the Tri-W treatment plant site, and 8 acres at the Broderson leach field site. Both of these areas provide habitat for the Morro shoulderband snail, listed as threatened species by the US Fish and Wildlife service, as well as other rare plant and animal species, and are therefore constitute ESHA under the LCP. The project will also result in the removal of 2.5 acres Eucalyptus groves at the Tri-W site, and one quarter of an acre at the Broderson site. These trees are used by the area’s diverse bird life, and provide suitable over-wintering habitat for Monarch butterflies. As a result the eucalyptus windrows on both sites were also classified as ESHA during the County’s review of the project.⁸

Another significant and more widespread impact to ESHA attributable to the project is the removal of a significant constraint to new development - the septic tank discharge prohibition enacted by the RWQCB in 1988. About 250 acres (19%) of the 1,270-acre wastewater collection area remain undeveloped largely as a result of this prohibition, and form an integral component of the area’s biologic resource base. The provision of wastewater treatment will enable development of these habitat areas, and thereby raises conflict with LCP ESHA protection requirements.

As detailed in the environmental reviews of the project, as well as in the current drafts of the HCP and the Estero Area Plan Update, the Tri-W site and the Broderson site, as well as the remaining vacant parcels within the urban area, meet the LCP definition of ESHA under both existing standards and the proposed updates. Although there have been past disagreement on how LCP ESHA maps apply to such determinations, the record of review for this project indicates agreement of the applicant, the County, and the Commission on a key principal expressed by the Commission regarding this issue - that the determination of ESHA must be based on actual conditions rather than on maps that do not accurately depict the true location and extent of ESHA. Support for this approach was reinforced by LCP Amendment 1-03 (Phase 1 Periodic Review Implementation), which took effect on July 15, 2004 and references the LCP’s existing Rules of Interpretation as requiring ESHA determinations based on the presence and location of the biological resource of concern.

b. Alternatives

CZLUO Section 23.08.288d allows public facilities within ESHA only where there is no other feasible location. To address this requirement, applications to develop public utility facilities in sensitive areas must include a feasibility study analyzing constraints and alternative locations.

As required by Section 23.08.288, the feasibility and constraints of alternative treatment plant locations have been thoroughly considered. Out of the pool of five alternatives considered in the project EIR, the Andre site (an agricultural parcel on the east side of town) was identified as a potentially feasible and

⁷ The Significant Natural Areas Program was established to identify high-priority sites for the conservation of California’s biological diversity and to inform resource decision-makers about the importance of these sites. The programs goals include: 1) identifying the most significant natural areas in California; 2) ensuring the recognition of these areas; and 3) seeking the long-term perpetuation of these areas.

⁸ Staff Report for October 21, 2003 Planning Commission Hearing



superior alternative. The Commission evaluated this option when it considered LCP Amendment 3-01, and adopted the following finding:

As stated in the [LOCSD's] response [to CCC staff comments on the Draft EIR], there has been an exhaustive assessment of alternative sites for the treatment plant site. Although the Andre site may avoid direct impacts to ESHA as a result of treatment plant construction, it would result in the conversion of productive (although not prime) agricultural land, would add significant costs to the project, and would not achieve the project's objectives. Impacts to ESHA would not be completely avoided by locating the treatment plant at this site, as the collection and distribution system running to and from this location would require crossing of Los Osos Creek. Thus, it is not clear that the Andre site provides either a feasible, or environmentally preferable alternative to the Tri-W site. Given this uncertainty, and the critical resource protection needs that will be addressed by the implementation of a wastewater treatment project (see findings regarding Water Quality and Marine Resources), it is more protective of coastal resources to allow construction of the treatment plant at the proposed location than to cause the delays that would be associated with further consideration of an alternative sites.

Notwithstanding this previous action, questions and issues raised at the April 15, 2004 Substantial Issue hearing regarding the feasibility and potential environmental benefits of relocating the treatment system the Andre site led the LOCSD to provide an updated comparison, included in Exhibit 6. Upon further review of the Andre site, the LOCSD found that the presence of high voltage overhead power lines and associated property restrictions render the Andre site infeasible for treatment plant purposes.

As demonstrated by this history, alternative treatment plant locations have been evaluated in accordance with CZLUO Section 28.08.288. These analyses have failed to document a feasible alternative for the treatment plant that would avoid impacts to ESHA. In light of this fact, the LCP specifically allows for a treatment plant on the Tri-W site despite the presence of ESHA, and the proposed location of the treatment plant is therefore consistent with LCP ESHA protection requirements.

Alternative methods and locations for treated effluent disposal have been similarly evaluated, with maximizing groundwater recharge an important criteria. This criteria, along with concerns for protecting marine habitats and water quality, led the LOCSD to reject the option of disposing the effluent to bay or ocean waters. Disposal to Los Osos creek was an option previously contemplated by the County, but it too poses significant adverse impacts to sensitive habitats (e.g., creek crossings, loss of riparian habitat). More problematic, the seasonal availability of the creek disposal option does not provide an opportunity to avoid the impacts of other methods of disposal. Similar limitations are faced by options of use for agricultural and landscape purposes.

Both the County and the LOCSD selected the Broderson site due to the groundwater recharge opportunities offered by highly permeable soils, depth to groundwater, and position in relation to geologic features affecting basin hydrology. Although the site of disposal remains the same, the



projects differ in the quantity and method of disposal. The County originally proposed percolation ponds/infiltration basins, but in an effort to minimize the footprint of the facility and address other concerns, initiated the effort to evaluate options such as wells, both at the Broderson site and within public right of ways.

The LOCSD has continued this effort, and selected the option of disposing of effluent by sub-surface leachfields. Approximately fifty percent of the wastewater processed by the system will be disposed of in leachfields located adjacent to road rights-of-way, in locations with adequate depth to groundwater and recharge potential. The remainder of the effluent will be disposed of at the Broderson site, in leachfields distributed throughout an 8-acre portion of the site that will be constructed, operated, and maintained in a manner that maximizes native habitat restoration opportunities. As indicated by this progression, great effort has been placed in considering options and minimizing impacts. Accordingly, the alternatives analysis required by CZLUO Section 23.08.288 have been satisfied, and that there are no feasible options for disposing treated wastewater that would avoid impacts to environmentally sensitive habitats.

c. Proposed Mitigation

1) Minimize Direct Impacts

San Luis Obispo County conditions of approval appropriately require the district to reduce and mitigate the impacts of construction activities on environmentally sensitive habitat areas (ESHA), in accordance with standards established by the project EIR and LCP Amendment 3-01 attached as Exhibit 4. For example, to maximize the compatibility of the leachfield area with surrounding habitat protection and enhancement efforts, the leachfield area will be planted with native plants with a shallow root system that will extend the life of the leach fields. It is anticipated that leach line renovation will be needed at some point in the future, which means that a portion of the plants introduced after construction will someday be removed for that purpose. To minimize disruption to the surrounding habitat the County conditions of approval require rehabilitation of the percolation fields on a rotational basis, so no more than one field will under re-construction at any one time. In addition, access routes to the leachfields must be sized and located to have the minimum impact on the habitat. When combined with requirements for prompt revegetation of disturbed areas, leachfield maintenance will not interfere with habitat restoration and protection objectives.

The one exception to this case is authorization to construct Ravenna Avenue to a length greater than that which is necessary to provide access to the Treatment Plant. This would not only result in an unnecessary loss of sensitive coastal scrub habitat, but would encourage development of the adjacent parcel, which also contains ESHA. As a result, a condition requiring the road to be shortened is needed to conform to CZLUO Section 23.07.176a.

2) Offset Unavoidable Impacts

The project proposes to mitigate unavoidable impacts to ESHA by acquiring, restoring, and protecting the 80-acre Broderson site in accordance with the requirements established by LCP Amendment 3-01.



The Findings for Commission approval of LCP Amendment 3-01 state:

... the LOCSD has entered into an agreement to purchase the 80-acre Broderon site, which will serve dual purposes. As mentioned above, the site will be used for leach fields for the disposal of treated wastewater in a manner that will recharge the groundwater basin. This will disturb a total of about 8 acres. The site will then be restored and preserved as coastal scrub and maritime chaparral as a means to offset the direct biological impacts caused by the construction of the wastewater treatment system. The long-term preservation and enhancement of the 80 acres of habitat contained on the Broderon site provides an effective way to offset the unavoidable biological impacts that will result from the construction of this essential public facility, and will help ensure the biological continuance of the affected types of habitats, for the following reasons.

- *The loss of 7.5 acres of degraded coastal scrub habitat contained on the Tri-W site, which occurs in very low densities, and the temporary impacts to about 8 acres of medium quality scrub habitat on the Broderon site, will be offset by the preservation and enhancement of over 20 acres of high quality coastal scrub habitat on the Broderon site, which has a very high density of observed snails and is in the Critical habitat for the snail designated by the USFWS.*
- *The loss of 2.5 acres of Eucalyptus groves on the Tri-W site, and 0.21 acre on the Broderon site, will be offset by the preservation of a roughly equivalent amount on the Broderon site, provided that the non-native eucalyptus may be removed in the future should the responsible agencies determine that it is most protective of coastal habitats.*
- *The remaining 55 acres of the Broderon site contains sensitive high-quality Maritime Chaparral and Coast live oak woodland. This area is important habitat for rare plants including the endangered Morro manzanita and Indian knob mountainbalm.*
- *The 80-acre Broderon parcel is a key component of the “greenbelt” surrounding the urban area of Los Osos. The establishment, protection, and long-term maintenance of the sensitive habitat areas that comprise the greenbelt is intended to maximize protection and enhancement of the multiple species and habitats that are unique to the area, as further discussed below.*

The Conditions of approval adopted by San Luis Obispo County provide an effective means for implementing the mitigation requirements described above, and have therefore been incorporated as terms of the Commission’s approval. (See Special Conditions 62 –72.)

3) Establish and Implement Plan to Address Impacts of Buildout

As previously described, the fine sandy soils throughout the 1,270-acre service area support a unique ecosystem comprised of various sensitive habitats. About 250 acres (19%) of the service area remain undeveloped, in large part due to the septic tank discharge prohibition established by the RWQCB in



1988. These undeveloped properties form an integral component of the area's biologic resource base. The provision of wastewater treatment will remove the primary constraint to development of these habitat areas, and is thereby in conflict with LCP ESHA standards such as Sections 23.07.170d(4) and 23.07.176a of the Coastal Zone Land Use Ordinance (CZLUO).

To address these requirements and prevent the project from facilitating development that would place a significant cumulative threat to the biological continuance of ESHA within the service area, the project EIR and the certified LCP call on the LOCSD to prepare a Habitat Conservation Plan (HCP) as part of the coastal development permit application, and to implement the approved HCP throughout the life of the project⁹. The Commission endorsed this approach when it adopted LCP Amendment 3-01, as reflected in the following finding:

As is the case in other urbanized areas of California that once supported coastal scrub and maritime habitats, the vacant lands of Los Osos continue to support these disappearing natural resources. In the past, most efforts to protect these remaining habitats have been pursued on a case-by-case basis. This has resulted in a patchwork of protected habitat, the long-term viability of which diminishes as these habitat areas become further fragmented and degraded by adjacent urban development. In recognition of this trend, resource agencies are working towards regional approaches for habitat conservation that can accommodate reasonable use of private property and at the same time achieve maximum protection of sensitive habitats. The standards established by the amendment for mitigating the biological impacts of the treatment plant development are consistent with the regional habitat protection planning effort currently underway in Los Osos.

The specific requirement for an HCP is established by Mitigation Measure BIO-16 of the EIR, which was incorporated into the LCP as a standard for facility development by LCP Amendment 3-01 and states:

The LOCSD, in conjunction with the California Department of Fish and Game (CDFG), the US Fish and Wildlife Service (USFWS), San Luis Obispo County and the California Coastal Commission shall prepare and implement a Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP) for the long-term preservation of habitat remaining within the Los Osos Greenbelt, including habitat remaining on individual vacant lots. The HCP/NCCP shall identify the habitat resources and the quality of those resources on the remaining vacant properties within the Greenbelt. The range of potential conservation programs to be considered in the HCP/NCCP shall include, but not be limited to the following:

- *The identification of policies and programs to be incorporated into the Estero Area Plan aimed at the long-term preservation of sensitive biological resources in the Los Osos area; such policies and programs may include:*

⁹ Timeframe for preparation and implementation of HCP established by EIR Mitigation Monitoring Plan attached to this Report as Exhibit 4.



- *Transfer of development credits*
 - *Clustering*
 - *Avoidance of sensitive resources in site design*
 - *Changes in density and land use*
 - *Incorporation of open space into the design of new development*
- *Programs aimed at facilitating coordination among agencies and organizations involved in management and conservation/preservation of sensitive resources, including USF&WS, CDFG, California Coastal Commission, San Luis Obispo County, the LOCSD, MEGA, NEP, Land Conservancy of San Luis Obispo County, and others;*
 - *The creation of a landbank program to facilitate the purchase of properties with high quality habitat within the Greenbelt, to be repaid over time from fees on new building permits;*
 - *Programs for the acquisition of properties within the Greenbelt with significant habitat resources.*

The timing for implementation of this measure identified by the EIR and LCP is that the HCP should be prepared prior to the Coastal Development Permit Application and implemented following approval by USFWS and CDFG. The timing and process for preparing and implementing the HCP was specifically addressed by the following finding for Commission approval of LCP Amendment 3-01:

The above approach is consistent with the recommendations contained with the Commission's Periodic Review of the SLO LCP for improving the protection of ESHA in Los Osos, and supports the technique for mitigating the habitat impacts associated with the development of the wastewater treatment plant prescribed by the amendment. It is noted that the secondary impacts of wastewater treatment facility project, and the way in which the LCP will manage the growth facilitated by the project consistent with the requirements of Section 30240 of the Coastal Act, is beyond the scope of this amendment. As required by the above mitigation measure/development standard, these issues will need to be resolved prior to the approval of the Coastal Development Permit for the project. A critical component of this process will be the development new Planning Area Standards to implement the area wide conservation plan, and incorporating such standards into the LCP via the pending Estero Area Plan Update. This will provide the Commission with an opportunity to ensure that the area wide plan approach for protecting ESHA in the South Bay Urban Area will provides the most effective approach for carrying out the habitat protection objectives of Coastal Act Section 30240.

Although the LOCSD has diligently pursued the development on an HCP, the timing of its preparation and its content to date do not satisfy the requirements of the LCP. The need to prepare an HCP prior to permit application reflects the important role the HCP plays in addressing LCP ESHA protection requirements. The fact that the HCP is in pre-application draft form, lacks the required Implementing Agreement, and has not been subject to environmental review and public comment, demonstrate that the HCP has not been prepared to an adequate level to rely on as an effective tool for protecting ESHA as



intended by the LCP.

In an attempt to address this concern, San Luis Obispo County conditioned its approval of the project to require the LOCSD to prepare and implement an HCP for the long-term preservation of habitat remaining within the Los Osos Greenbelt “prior to approving sewer hookups for new construction”. County conditions further required the HCP to be approved by “the appropriate agencies and an Endangered Species Act Section 10 permit issued for construction activities within the sewer service area, again “prior to approving sewer hookups for new construction”.

Although well intentioned, these conditions do not effectively implement LCP requirements because they inappropriately rely on a future US Fish and Wildlife Service permit process to resolve ESHA protection issues. The standards of the Endangered Species Act are distinct from the ESHA protection requirements of the LCP, as are the Section 10 and Coastal development Permit procedures, and compliance with one does not necessarily equate to compliance with the other. Moreover, the County conditions do not establish an effective process for implementing the HCP, as required by Mitigation Measure Bio-16. As recognized throughout the interagency coordination process that has taken place regarding the draft HCP to date, successful implementation of the HCP necessitates corresponding updates to the standards for development established by the LCP. Yet, the County conditions fail to ensure that such LCP amendments will be in place prior to the onset of development enabled by the project.

Therefore, to ensure that the final version of the HCP will carry out LCP ESHA protection requirements and be effectively implemented before development of vacant land begins to occur, recommended conditions of approval prohibit the District from providing service to undeveloped parcels until an LCP amendment, integrating the HCP and the LCP development standards for the South Bay Urban Area area, has received final certification by the Commission. It is essential that the plan address the entire urban planning area because the protection of remaining habitats within this area is being relied upon to mitigate for the loss of habitat within the service area.

3. Conclusion

The extensive review of environmental impacts and alternatives completed in the attempt to address community wastewater treatment needs demonstrates a diligent effort on behalf of the responsible agencies to locate the necessary facilities in a manner that is most protective of coastal resources such as ESHA. Despite these efforts, this process has yet to identify feasible siting alternatives that would avoid impacts to ESHA. Although the possibility for reducing impacts through potentially feasible alternatives that have not yet been considered continues to be debated, the damage to coastal resources posed by on-going discharges from septic systems preclude such options from offering a less environmentally damaging alternative.¹⁰ Thus, the proposed locations for the treatment plant and effluent disposal facilities comply with LCP requirements for locating public facilities within ESHA,

¹⁰ The Central Coast Regional Water Quality Control Board has provided the Coastal Commission with its administrative record documenting the critical need for the treatment facility.



established by Section 23.08.288 of the CZLUO and LCP Amendment 3-01.

In order to fulfill LCP standards established to address unavoidable impacts of project construction, this permit incorporates conditions enacted by San Luis Obispo County that, with minor edits, implement the mitigation requirements of the LCP. More significant changes to the County conditions are required to carry out LCP requirements for the preparation and implementation of an HCP that addresses impacts to ESHA from new development enabled by the project. Accordingly, the project can only be found consistent with the LCP ESHA standards if conditioned to prohibit the district from providing wastewater treatment service to vacant parcels until the final HCP and its accompanying Implementation Plan/LCP Amendment have been approved by the involved regulatory agencies.

D. Service Area and Capacity Issues

1. LCP Policies

LCP Policy 2 for Public Works states:

New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. Other special contractual agreements to serve public facilities and public recreation areas beyond the urban reserve line may be found appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.430 OF THE CZLUO.]

CZLUO Section 23.04.430 states:

23.04.430 Availability of Water Supply and Sewage Disposal Services.

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

- a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.*
- b. Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such*



service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

CZLUO Section 23.04.432 states:

23.04.432 Development Requiring Water or Sewer Service Extensions.

To minimize conflicts between agricultural and urban land uses, development requiring new community water or sewage disposal service extensions beyond the urban services line shall not be approved.

2. Analysis

a. Relationship of Service Area to Urban Service and Reserve Lines

In accordance with Coastal Act requirements, the LCP limits the capacity of public works facilities to avoid inducing growth beyond what can be accommodated consistent with the protection of coastal resources. Planning area boundaries provide an important tool for carrying out this objective, by restricting the extension of urban services beyond the areas designated for urban development by the LCP. Public Works Policy 2, along with CZLUO Sections 23.04.430 and 23.04.032, specifically prohibit the extension of services outside the LCP's Urban Service Line (USL).

The proposed service area, which is co-terminus to the septic discharge prohibition area established by the RWQCB, conflicts with this requirement in the areas indicated by Exhibit 3. Properties between the Urban Services Line and Urban Reserve Line are not eligible to receive urban services until such a time that the LCP has been amended to include such properties within the Urban Services Line. Thus, the project must be conditioned to eliminate areas outside the USL from the service area, and to revise collection plans to remove any facilities rendered unnecessary by this reduced service area.

Concerns have also been raised that the service area is not broad enough to provide effective groundwater protection. The service area comprises only 1,270 acres of the 2,117 acres within the USL eligible to receive wastewater treatment service. As previously indicated, the presence of ESHA throughout the undeveloped urban area necessitates restrictions on the service to vacant lot with within the USL, and, as a result, a smaller service area than USL is warranted. However, the concept of expanding service to existing residential neighborhoods within the USL, such as Cabrillo Estates, does not violate this principal, particularly if such service is needed to protect marine habitats and coastal water quality.

In response to questions regarding the potential environmental and cost saving benefits of including the Cabrillo Estates neighborhood, the RWQCB and LOCSD have indicates that such an expansion is neither necessary nor economically beneficial. The Septic System Maintenance Program to be implemented by the LOCSD for all areas within the Urban Reserve Line that are outside the service area is viewed by the RWQCN and LOCSD as providing effective groundwater protection given the larger parcel size and/or greater depth to groundwater associated with these areas.



b. Relationship of Project Capacity to Buildout allowed by the LCP

Another way in which the LCP regulates public facilities works facilities to prevent growth beyond what can be supported by the area's coastal resources is to limit service capacities. As required by Public Works Policy 2, the project's capacity must be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines.

The population of Los Osos in 2000 was estimated by the County to be 14,406, and according to Table B, on page 2-3 of the adopted Estero Area Plan, has a maximum buildout capacity of 28,688 under current land use designations. However, additional planning and constraints analyses that have taken place since the adoption of the Estero Area Plan in 1988 indicates that such a buildout level would not be consistent with the protection of coastal resources. Accordingly, the draft Estero Area Plan Update has proposed a reduced buildout level of 19,601 for Los Osos.

Under either the current Estero Plan or Draft Update, the estimated buildout populations cited above are based on assumptions that all vacant properties will subdivided and developed according to the maximum density established by the sites primary land use designation. They do not take into account the limitations on development established by the LCP's Combining Designations, such as identified habitat areas, that significantly reduce potential intensities of allowable development. Nor do they account for the limitations on development intensities established by LCP standards requiring evidence of adequate public service capacities, such as water. Thus, it would be inappropriate to rely on these population buildout figures alone in determining the consistency of the proposed capacity with the Public Works provisions of the LCP.

An accurate assessment of projected development within the Los Osos urban area, under the existing development standards of the current LCP, must take into account current facts regarding actual development potential. As evidenced by the Commissions record of recent actions of proposed subdivisions and lot-line adjustments proposed in the area¹¹, as well as by the Commission's Periodic Review of the LCP, the application of current LCP policies protecting ESHA and groundwater supplies significantly limit allowable intensities of development, particularly with respect to subdivisions. The revised development standards contained in the draft Estero Update attempt to respond to these concerns, but important issues remain unresolved. As a result, the maximum buildout estimate derived from the draft Update, currently being reviewed by the San Luis Obispo County Board of Supervisors, cannot be relied upon as providing an accurate projection of the level of development allowed by the LCP.

Concerns about this timing problem were expressed in Commission staff comments on the EIR in 2001. At that time, staff recommended phasing the project to provide immediate wastewater treatment needs to existing development at the initial stage, and expanding capacity only after the Update process is completed. Project engineers responded that it was not feasible or economical to phase the capacity of the plant. As an alternative means to ensure the capacity of the plant does not exceed the level of development allowed by the LCP, the conditions of this permit require the provision of wastewater

¹¹ e.g., Pratt, Schoenfield, Linsley, Goedinghaus



service to be phased in coordination with an LCP amendment that resolves buildout issues and constraints.

Notwithstanding these restrictions on service, concerns remain regarding the potential growth inducing impacts associated with the method by which the LOCSD may finance the project, in that the assessments levied by the LOCSD may create false expectations about the maximum development intensities can be realized. In order to prevent assessments from making premature commitments regarding the allowable level of future development, the conditions of this permit clarify that Commission approval of this permit, or any method of financing the project utilized by the LOCSD (e.g., the established assessment program), does not guarantee Coastal Commission or local government approval of any new or intensified uses within the service area. This condition also requires that the permittee notify property owners within the service area of this condition, so that no false expectations regarding development potential result from this project.

3. Conclusion

Construction of a wastewater treatment facility to replace existing septic systems is essential to protect health and environment of Morro Bay. Providing service to undeveloped lots is not, however, an immediate environmental protection need. Rather, new development facilitated by the provision of wastewater service to undeveloped lots poses adverse impacts to coastal resources such as ESHA and groundwater supplies, as detailed in other sections of this report.

The process to resolve outstanding questions regarding sustainable levels of buildout, and thus appropriate public service capacities, is to update LCP development standards and intensities in accordance with current information regarding sustainable water supplies and groundwater management needs. This is a key component of the County's current efforts to amend the Estero Area Plan, and a priority recommendation of the Commission's Periodic Review.

Accordingly, the LOCSD has made an effort to coordinate the treatment plant's capacity with the Estero Area Update. Efforts to construct the sewer system, however, have outpaced the process for resolving key issues regarding appropriate levels of projected development. The capacity of the plant has been designed to serve the maximum buildout allowed by the draft update assume, assuming that vacant properties will subdivided and developed according to the maximum density potential of its land use designation. This does not account for the fact that the Commission has, in recent years, found further subdivision of Los Osos to be inconsistent with LCP standards regarding water supply, and ESHA. The revised development standards contained in the draft Estero Update attempt to respond to these concerns, but important issues remain unresolved. The maximum buildout estimate derived from the draft Update, currently being reviewed by the San Luis Obispo County Board of Supervisors, cannot be considered realistic until the LCP amendment process has been completed.

The project is inconsistent with LCP standards regulating the capacity of public works because it has been sized to accommodate a level of future development that has not shown to be consistent with the LCP, particularly in regard to the protection of ESHA and groundwater resources. Therefore, the permit



has been conditioned to prohibit the LOCSD from providing wastewater treatment service to vacant lots unless and until buildout issues have been resolved through the required LCP amendment process. In addition, to prevent the financing mechanisms used by the LOCSD from creating false expectations regarding the allowable level of future development, the permit has been conditioned to require the LOCSD to provide notice to property owners that neither project assessments, nor Commission approval of the permit to construct the wastewater treatment project, provide any guarantee regarding allowable future development intensities, which must be determined on a case by case basis, according to all applicable standards of the certified LCP.

E. Groundwater Resources

1. LCP Standards

LCP Policy 1 for Coastal Watersheds states:

Preservation of Groundwater Basins. *The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDRD.]*

LCP Policy 2 for Coastal Watersheds states:

Water Extractions. *Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the database for the Resource Management System and shall be supplemented by all available private and public resource studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for the optimum populations of marine organisms, and for the protection of human health. (Public works projects are discussed separately.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

LCP Policy 5 for Coastal Watersheds states:

Los Osos Groundwater Management. *The county Planning and Engineering Departments should work with communities, property owners and the Regional Water Quality Control Board to develop and implement a basin-wide water management program for the Los Osos groundwater basin which addresses:*

- *existing and potential agricultural demand,*
- *urban expansion in relation to water availability,*
- *groundwater quality,*



- possible need for alternative liquid waste disposal,
- protection of aquatic habitats including coastal waters, streams and wetlands.

The Resource Management System of the Land Use Element provides a framework for implementing this policy and an interim alert process for timely identification of potential resource deficiencies, so that sufficient lead time is allowed for correcting or avoiding a problem. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

LCP Policy 11 for Coastal Watersheds states:

Preserving Groundwater Recharge. In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and maintain in-stream flows and riparian habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

2. Analysis

Construction of a wastewater treatment facility to replace existing septic systems is essential to protect the Los Osos groundwater basin. State and Regional Water Quality Control Boards with responsibility for protecting water quality have documented this need with an extensive administrative record containing years of monitoring data and technical reports. In addition, the RWQCB has established time schedule orders for compliance with RWQCB resolutions prohibiting septic discharges, reflecting the urgent need to address current wastewater treatment deficiencies.



a. Groundwater Supplies

Providing new sewer service to existing developed lots does not raise a groundwater supply question per se. However, the new development that will be facilitated by the project poses adverse impacts to groundwater basin by increasing demands for water. The capacity of the treatment plant is designed to serve the hypothetical maximum level of development (buildout) allowed by the draft Update to the LCP's Estero Area Plan, which would increase the current population of 15,000 to approximately 20,000. It is important that the treatment plant not induce growth that is inconsistent with the LCP.

According to estimates cited by the LCP, the basin is currently being drafted at a greater rate than it is being recharged. This issue is detailed by the following finding from the Coastal Commission's Periodic Review of the San Luis Obispo County LCP¹²:

The Los Osos urban area, encompassing approximately 2,590 acres, consists of several loose-knit neighborhoods, including Los Osos, Baywood Park and Cuesta-by-the-Sea (see Map 2-C). At the time of certification, the County estimated Los Osos' population to be 10,381. Current County estimates place existing population at 15,189 and full buildout potential at 17,836.¹³ Similar to Cambria, there are many hundreds of small vacant lots remaining in Los Osos – an artifact of the original subdivision of the area in the late 1800s.

Table 2-16. RMS Reported Levels of Service for Los Osos

	90	91	92	93	94	95	96	97	98	99	00
Water Supply	2	3	2	2	2	2	2	2	2	2	2
Water Distribution	3	3	2	2	2	2	2	2	2	2	2
Sewer Capacity	0	3	3	3	3	3	3	3	3	3	3
Roads	3	3	3	3	3	3	3	3	3	3	3
Schools	2	2	3	3	1	3	2	3	3	3	2
Air Quality	2	2	2	2	2	2	2	2	2	2	2

From groundwater contamination to over-draft and seawater intrusion, the groundwater basin serving Los Osos has been strained for decades. Due to water quality degradation of the Bay and the groundwater basin from septic disposal, the Regional Water Quality Control Board (RWQCB) imposed a septic tank discharge moratorium in January 1988. The RWQCB established a prohibition zone—which comprises most of the USL (see Map 2-C)—within which new residential construction or major expansions of existing

¹² page 62-63 of Exhibit A to Periodic Review Report dated July 12, 2001

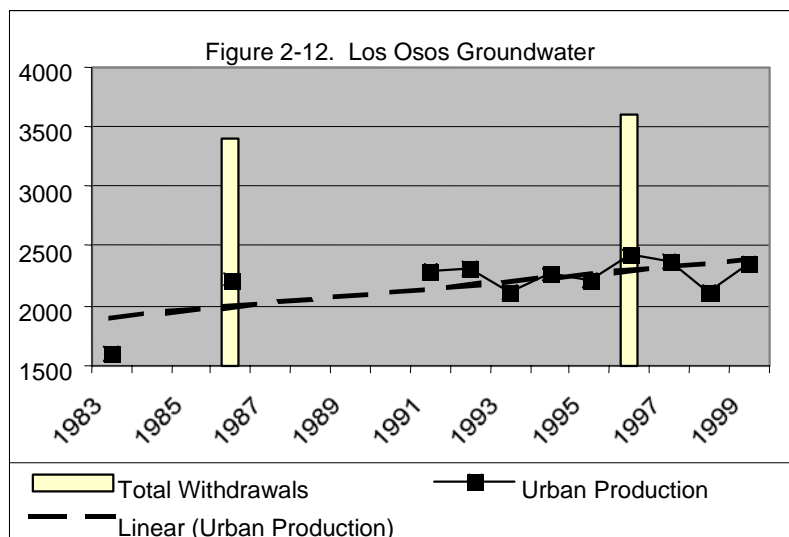
¹³ This estimate assumes full occupancy rates.



*buildings has been effectively halted until the County provides a solution to the water degradation problem.*¹⁴

Water Supply

Since its inception, the Resource Management System has recommended a LOS of either II or III for water supply and distribution in Los Osos; again, the Board of Supervisors has not certified the recommendations. There is considerable uncertainty as to the available water supply for the community. Currently, water is drawn from the Los Osos groundwater basin by three water purveyors: the Los Osos Community Services District, California Cities Water Company, and the S&T Mutual Water Company. When the Estero Area Plan of the LCP was certified in 1988, the best estimate of the safe yield of this basin ranged from 1,300 to 1,800 acre-feet per year. At that time, net urban water demand had already exceeded the low end of this range, with estimated urban use at approximately 1600 afy. It was estimated that the 1800 afy figure would be exceeded at a population of 12,600 – well below the current population of 15,189.



*In recognition of the limited water supply for Los Osos, the Commission in 1983 recommended that the 1800 afy figure be established as the safe yield for the Los Osos groundwater basin until such time as a detailed hydrologic budget analysis could be completed for the entire basin.*¹⁵ *The certified Estero Area Plan also included an Interim Resource Management Program to be applied to new development applications. Under*

¹⁴ In May 1999, the RWQCB adopted revisions to previously approved guidelines that allows a limited amount of new development in the prohibition area.

¹⁵ Coastal Commission Adopted Revised Findings for the San Luis Obispo County Land Use Plan, October 23, 1983, p.56-7.



this program, the County Planning Department was to provide the Board of Supervisors and Planning Commission with a semi-annual report on water projected urban growth. Pending development applications were to be categorized as coastal priority and non-priority uses. The BOS was then to make findings as to whether development of priority uses (e.g. visitor-serving, agriculture, and urban infill) would be affected by non-priority development. Most important, if the Board found that proposed development would result in water demand approaching 1800 afy for the Los Osos Basin, or that proposed priority uses would be affected by water restrictions, all development applications were to be elevated to a higher level of review, with preferences given to priority uses (Estero Area Plan 6-25).

These programmatic requirements were further implemented through standards that established priorities for new development drawing water from the Los Osos basin until a Resource Capacity Study was completed through the RMS process. These standards included reserving 800 afy for agricultural uses, and serving existing urban infill lots prior to new lots or lots outside of the urban core. Consistent with general LPC policies, new land divisions would only be permitted if new water sources were identified.

In 1989, the Department of Water Resources completed a study of the Los Osos Basin that revised the safe yield upward to approximately 2,200 afy. However, because withdrawals from the basin in 1986 were about 3,400 afy, the DWR concluded the basin was in overdraft. Based on this information, the RMS for 1991 recommended an LOS III for Los Osos. Well data also indicated potential seawater intrusion, possibly aggravated by the fact that some wells were located close to the coast. The RMS also recommended an LOS III for water distribution, as well as a moratorium on building permits for new development that would rely on groundwater extractions from the Los Osos basin.

As required by the RMS, the County conducted a Resource Capacity Study for Los Osos. After public hearings in 1992, the Board of Supervisors concluded that there was insufficient information in the previous USGS and DWR studies to conclude that the groundwater basin was in overdraft or that seawater intrusion was occurring. The planning staff was directed to revise the findings of the Capacity Study accordingly. RMS levels were moved back to LOS II. The three water purveyors for Los Osos initiated discussions about joint studies and action to respond to the water issues. In addition to new studies, the providers continued to participate in an on-going project to import 600 afy of water to Los Osos from the Nacimiento Reservoir.

More recently debate has continued about the safe yield of the Los Osos groundwater basin, particularly in relation to on-going efforts to develop a wastewater treatment plant for the community that would also serve a groundwater recharge function. In August of 2000, the newly formed Los Osos CSD published a baseline report for the basin that concluded that inflows and outflows to the basin were roughly equal. Specific



conclusions about the safe yield of the basin, though, await further analysis concerning the proposed wastewater treatment plant and how recharge from this project would affect groundwater levels. This study is anticipated later this year.

As shown in Figure 2-12, water production in Los Osos has steadily increased since the early 1980s when the Commission first reviewed the Land Use Plan for the community. Current urban demand remains at or above the 2200 afy sustainable yield figure determined by DWR in 1989. Moreover, total water demand from the basin (including agricultural withdrawals) has been placed at well over this safe yield figure, both in the mid-1980s and as recently as 1996.

The safe yield analysis completed by the LOCSD since the Periodic Review report suggests that limited growth may be accommodated if accompanied by strategic use of extraction and recharge systems. Without passing judgement on this assessment, it is premature to rely upon. The appropriate process to resolve water supply and buildout issues is to update LCP development standards and intensities in accordance with current information regarding sustainable water supplies and groundwater management needs. Thus, the Commission adopted the following Periodic Review Recommendation:

Recommendation 2.20: Los Osos Long-term development. Amend Estero Area Plan, including changes to support a reduction in buildout, to reflect an updated Buildout analysis, preservation of groundwater basins, and sensitive habitat protection needs identified through the HCP. Options that build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

The County has proposed to respond to this objective, and, as described above, the LOCSD has made an effort to coordinate the treatment plant's capacity with the Estero Area Update. Efforts to construct the sewer system, however, have outpaced the Update, and issues regarding of projected development remain unresolved.

The capacity of the plant is sized to enable vacant properties to be subdivided and developed according to the maximum density potential of its land use designation. This maximum buildout estimate exceeds the projected development allowed under a current reading of the LCP's groundwater resource protection requirements, which as applied by the Commission in recent cases, prohibit further subdivision of Los Osos.¹⁶

As a result, the maximum buildout estimate derived from the draft Update does not provide an accurate estimate of buildout allowed by the LCP. Therefore, to ensure the capacity of the plant does not exceed

¹⁶ Denials of proposed subdivisions and conditional certificates of compliance in Los Osos by the Coastal Commission include coastal development permit applications A-3-SLO-98-087 (Pratt/Cabrillo Associates, Tract 1873), A-3-SLO-99-079 (Linsley Subdivision), and A-3-SLO-01-108 (Schoenfield Certificates of Compliance)



the level of development allowed by the LCP, the conditions of this permit require that the provision of wastewater service be phased in coordination with an LCP amendment that resolves buildout issues and constraints.

b. Groundwater Recharge

Another concern regarding project compliance with LCP groundwater resource protection standards is the LOCSD's previous proposal to discharge water harvested from the upper aquifer into Morro Bay. The proposed method of treated wastewater disposal will change groundwater levels, and may necessitate groundwater withdrawals to prevent flooding and/or hazardous subsurface conditions. The possibility that significant quantities of water may be withdrawn from the upper aquifer and discharged to the Bay poses adverse impacts to the areas water supply by reducing groundwater recharge, in conflict with Coastal Watersheds Policy 2.

This concern is largely mitigated by the LOCSD's recent decision to delete such discharges from the project description. That action does not, however, ensure that such discharges will not be needed and pursued in the future. Recommended conditions therefore clarify that any future proposal to discharge harvest water to the Bay or Ocean requires an amendment to this permit, the application for which must be accompanied by evidence that other methods of disposal which retain the harvested water within the groundwater basin, such agricultural storage and use, have been exhausted. Restricting harvest water disposal in accordance with these terms is necessary to carry out LCP standards requiring new development to maximize groundwater recharge opportunities and protect groundwater supplies, as established by Coastal Watershed Policies cited above.

As a means to maximize groundwater recharge and protect coastal water quality and habitats consistent with LCP Coastal Watershed Policies 1, 2, 5, and 11, an additional condition calls on the LOCSD to participate in a program to evaluate and, where appropriate, assist property owners, in the implementation of opportunities to re-use existing leach fields to filter and percolate storm water runoff. As noted in the wetlands findings of this report, this will also help to prevent changes in localized groundwater levels associated with the decommissioning of septic tanks that could affect adjacent wetland areas.

3. Conclusion

Treatment system capacity is inappropriately based on the maximum level of buildout allowed by the draft update to the Estero Area Plan. Assumptions that all vacant properties will subdivided and developed according to the maximum density allowed by proposed land use designations does not account for the limitations on buildout established by current LCP standards, such as those requiring evidence of a sustainable water supply and the protection of Environmentally Sensitive Habitats. The revised development standards contained in the draft Estero Update attempt to resolve these issues. Nevertheless, this draft document cannot be relied upon as a standard of review, nor can its buildout estimates be considered realistic without Commission certification of the propose approach to ESHA and Coastal Watershed protection.



As a result, the proposed treatment capacity and the growth enabled by the project are inconsistent with LCP Coastal Watershed Policies cited above. The project is further inconsistent with these policies due to the reduction in groundwater recharge associated with the decommissioning of septic tanks and the potential discharge of harvested groundwater to Morro Bay and/or the Pacific Ocean. The project can therefore only be found consistent with LCP Coastal Watershed Policies if conditioned to:

- phase the provision of wastewater service to currently undeveloped properties in coordination with current efforts to resolve buildout issues and constraints;
- prohibit the discharge of harvested groundwater to Morro Bay or the Pacific Ocean unless it has been determined by permit amendment, that there is are no feasible options that would maintain such water within the watershed; and,
- evaluate, and where feasible, implement options of re-using existing leachfields as a method of maintaining and enhancing groundwater recharge and protecting coastal water quality from impacts of polluted runoff.

G. Wetlands

1. Applicable LCP Policies

The LCP is protective of coastal wetlands and recognizes them as environmentally sensitive habitat areas (ESHA's). The LCP requires that development located within or adjacent to wetlands shall not significantly disrupt the resource, and that the development be compatible with the biological continuance of the resource. On the whole, these LCP policies recognize that development within or in close proximity to wetlands can have negative resource impacts and should be avoided if feasible. The following LCP Policies apply:

Policy 5: Protection of Environmentally Sensitive Habitats. *Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved, and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

Policy 6: Principally Permitted Use. *Principally permitted uses in wetlands are as follows: hunting fishing, and wildlife management; education and research projects. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-172 OF THE CZLUO.]*

Policy 10: State Department of Fish and Game Review. *The State Department of Fish and Game shall review all applications for development in or adjacent to coastal wetlands and recommend appropriate mitigation measures where needed which should be incorporated in the project design. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]*



Policy 14: Adjacent Development. *Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]*

Policy 15: Wetland Buffer. *In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.*

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard setback, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principally permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]

The applicable wetland policies listed above are implemented by CZLUO 23.07.170-172 which states:

23.07.170 – Environmentally Sensitive Habitats.

The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

a. Application content. *A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:*

- (1) Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the resource and a program for monitoring and evaluating the effectiveness of the mitigation measures.*
- (2) Recommends conditions of approval for the restoration of damaged habitats, where feasible.*



(3) *Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.*

(4) *Verifies that applicable setbacks from the habitat area required by Sections 12.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.*

b. Required findings: *Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*

(1) *There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.*

(2) *The proposed use will not significantly disrupt the habitat.*

c. Land divisions: *No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*

d. Development standards for environmentally sensitive habitats:

(1) *New development within or adjacent to the habitat shall not significantly disrupt the resource.*

(2) *New development within the habitat shall be limited to those uses that are dependent upon the resource.*

(3) *Where feasible, damaged habitats shall be restored as a condition of development approval.*

(4) *Development shall be consistent with the biological continuance of the habitat.*

(5) *Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards).*

23.07.172 – Wetlands.

Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.

a. Location of development: *Development shall be located as far away from the wetland as*



feasible, provided that other habitat values on the site are not thereby more adversely affected.

b. Principle Permitted Uses in wetlands: *Hunting, fishing, wildlife management, education and research projects.*

c. Department of Fish and Game review: *The State Department of Fish and Game shall review all applications for development in or adjacent to coastal wetlands and recommend appropriate mitigation measures where needed which should be incorporated in the project design.*

d. Wetland setbacks: *New development shall be located in a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 (Application Content) determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.*

(1) Permitted uses within wetland setbacks: *Within the required setback buffer, permitted uses are limited to passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control of facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that:*

- (i) Alternative routes are infeasible or more environmentally damaging.*
- (ii) Adverse environmental effects are mitigated to the maximum extent feasible.*

(2) Wetland setback adjustment: *The minimum wetland setback may be adjusted through Minor Use Permit approval (but in no case shall be less than 25 feet), provided that the following findings can be made:*

- (i) The site would be physically unusable for the principal permitted use unless the setback is reduced.*
- (ii) The reduction is the minimum that would enable a principal permitted use to be established on the site after all practical design modifications have been considered.*
- (iii) That the adjustment would not allow the proposed development to locate closer to the wetland than allowed by using the stringline setback method pursuant to Section 23.04.118a of this title.*

(3) Requirements for wetland setback adjustment: *Setbacks established that are less than 100 feet consistent with this section shall include mitigation measures to ensure wetland protection. Where applicable, they shall include landscaping, screening with native vegetation and drainage controls. The adjustment shall not be approved until the approval body considers the following:*



- (i) *Site soil types and their susceptibility to erosion.*
- (ii) *A review of the topographic features of the site to determine if the project design and site location has been taken full advantage of natural terrain features to minimize impacts on the wetland.*
- (iii) *The biologist's report required by Section 23.07.170 shall evaluate the setback reduction request and identify the types and amount of vegetation on the site and its value as wildlife habitat in maintaining the functional capacity of the wetland.*
- (iv) *Type and intensity of proposed development.*
- (v) *Lot size and configuration and location of existing development.*

e. Site development standards:

- (1) **Diking, dredging or filling of wetlands:** *Diking, dredging or filling activities in wetland areas under county jurisdiction shall be allowed only to the extent that they are consistent with Environmentally Sensitive Habitats Policy 11 of the Local Coastal Plan and shall not be conducted without the property owner first securing approval of all permits required by this title.*
- (2) **Vehicle traffic:** *Vehicle traffic from public roads shall be prevented from entering wetlands by vehicular barriers, except where a coastal accessway is constructed and designated parking and travel lanes are provided consistent with this title. The type of barrier and its proposed location shall be identified in the materials accompanying an application for a land use permit and must be approved by the Planning Director before permit issuance to insure that it will not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland.*

CZLUO Section 23.08.288 regarding Public Utility Facilities cited previously in this report also applies to the evaluation of wetland issues. Specifically, subsection d. states:

- d. *Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

2. Analysis

The proposed sewer collection system is a network of gravity and pressurized sewer lines totaling



approximately 197,000 feet, with 7 pump stations and 12 pocket pump stations¹⁷ located throughout the community. Portions of the collection system, including pipelines, pump stations, and other accessory components, are proposed to be constructed within and adjacent to identified wetland areas. Notwithstanding the wetland benefits of wastewater treatment, issues have been raised regarding potential wetland impacts due to: 1) collection system encroachments within identified wetlands and wetland setbacks; 2) boring or “microtunneling” under identified wetland habitat areas; and 3) the decommissioning of existing septic systems which could lower groundwater levels. Further investigation of this issue has also identified that portions of the treatment plant facility (i.e., the Ravenna Avenue extension, facility entrance, and retention basin) and are located within 100 feet of an area recently mapped by project consultants as a potential wetland. (Wetland maps and information attached as Exhibit 5.)

One of the primary ways in which the LCP protects wetlands is by limiting the allowable uses within wetlands and prescribed setback areas. Allowable uses within wetlands are limited to hunting, fishing, wildlife management, education and research projects. The LCP’s Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.172 requires new development to maintain a 100-foot setback from wetlands. CZLUO Section 23.07.172d(2) allows the minimum setback to be adjusted provided that specific consideration has been given to site characteristics, design, erosion potential, lot size and configuration, and maintaining the ecological functioning and productivity of the wetland. With specific respect to public utility facilities, CZLUO Section 23.08.288d allows development within ESHA (which includes wetlands, and by implication, their setbacks) only where it can be shown that there are no feasible alternatives. Together, these standards require that all component of the treatment system to provide a 100 foot setback distance from wetlands, except where it can be shown that such setbacks are infeasible or more environmentally damaging.

a. Pump Station and Pipeline Setbacks

In response to concerns regarding the proximity of collection facilities to wetlands expressed at the April 15, 2004 Substantial Issue hearing, biologists from Morro Group, Inc. evaluated the proximity of collection facilities to areas that having the potential of meeting Coastal Act/LCP definition. This information, which was previously requested by Commission staff in response to the Draft EIR¹⁸, has identified that the collection system may encroach within 100 feet of potential wetland areas in the following locations:

Facility	Wetland Characteristics	Within Wetland?	Proposed Setback

¹⁷ As described in the *Addendum to the Final EIR, May 2003*, pocket pump stations are similar in size and construction to a conventional pump station and serve up to approximately 50 properties. Pocket pump stations are installed with extra large wet wells that provide 12 hours of average day wastewater flow to avoid the installation of standby power facilities. If an electrical power outage were sustained for a period greater than 12 hours, the pocket pump stations could be drained with the use of trailer mounted engine-generators or trailer-mounted pumps.

¹⁸ Final EIR, Response to Comments, pages 112 and 118



4th Street Pocket Pump Station	ACOE/CCC Wetlands – associated with Morro Bay estuary.	Yes	No setback
1) Lupine Pump Station and Standby Power Building. 2)Sewer main on Donna Ave.	ACOE/CCC Wetland – associated with Morro Bay estuary (connected to Cuesta Inlet with drain under Doris Ave. to the east).	1) No 2) No	1) 47 feet 2)Trench and/or Microtunnel under Donna Ave. wetlands
Solano/Pecho Connection	ACOE/CCC Wetland- non-tidal associated with Morro Bay estuary	No	Microtunnel under identified wetlands
Baywood Pump Station	ACOE/CCC Wetland – associated with Morro Bay estuary.	No	County approval relocates to east side of 3 rd street
1) E. Paso Pump Station, Standby Power Building, and Harvest Well. 2) 18 th St. collection lines	Potential CCC Wetland – isolated willows; roadside drainage channel.	1) No 2) No	1) 30feet 2)Microtunneling as necessary.
Proposed Force Main	CCC Wetland – willow and spring area; no connectivity.	No	Min. 50’ setback
Proposed Force Main	Potential CCC Wetland – gully fed by urban runoff; no connectivity.	No	Maintain facilities within ROW of extension of Ravenna

4th Street Pocket Pump

The wetland area identified at the north end of 4th Street is located on the fringe of the Morro Bay Estuary. Current project plans show the pocket pump station (PPS) and sewer collection line located within the wetland. There is also an existing water main at this location.

Alternatives

Alternatives in this case are limited to alternative sewer alignments and pump station locations that might better respond to wetland constraints located at the intersection of 4th Street and Santa Lucia Avenue.

The project consultants have recently submitted three feasible alternatives to address the issue:



- (1) Relocate the water main closer to the property corner at the southwest corner of the 4th Street and Santa Lucia Avenue intersection and/or concrete encase the water main in order to reroute the diagonal segment of the sewer main to the south and west to clear the wetland.
- (2) Relocate the pocket pump station further north and west within the Santa Lucia Avenue right-of-way and microtunnel the sewer main segment beneath the wetland area in the vicinity of the 4th Street and Santa Lucia Avenue intersection.
- (3) Install a second PPS so that one PPS serves 4th Street properties and the other PPS serves Santa Lucia Avenue properties and avoid the installation of a sewer main with the 4th Street and Santa Lucia Avenue intersection.

All of these alternatives are feasible and minimize adverse environmental effects by avoiding disturbances within sensitive wetland areas. Alternatives #1 and #3 are superior because they do not involve boring under sensitive wetland areas, and thereby eliminate the potential for sensitive habitat disturbance and the release of drilling contaminants into Morro Bay Estuary during construction (see following discussion entitled “Pipeline Borings” for more details on the impacts of boring under wetlands). Both alternatives #1 and #3 can be accommodated within already disturbed areas of the road right-of-way. Thus, re-locating the PPS and lines, or adding an additional PPS, avoids development within wetland areas. Implementing such alternatives is necessary to bring this project component into conformance with LCP wetland protection standards and therefore required by the conditions of this permit.

Lupine Pump Station

The Lupine Street Pump station is one of seven submersible pump stations and will be installed with an above ground standby power facility. The area of disturbance for the pump station, including the standby power facility, will be roughly 750 square feet. A fence is to be constructed around the perimeter of the development. Underground sewer lines will connect the pump station to other parts of the sewer system.

The wetland area identified near the Lupine Pump Station consists of a small, depressional fresh/brackishwater marsh area separated from tidal portions of Morro Bay (Cuesta Inlet) by an unpaved road. The wetland area is dominated by low-growing plants, and is surrounded by residential development and vacant upland property. The wetland receives rainfall and urban runoff, and occasionally drains into and receives tidal flow from Morro Bay through a 12-inch steel culvert. The closest identified wetland area is located approximately 47 feet south of the proposed pump station fence and would not be directly affected by pump station construction. The associated sewer lines cross the upper portion of the wetland area along the undeveloped section of Donna Avenue, and skirt the edges of wetland areas along Doris (See Exhibit 5).

Impacts

The proposed construction of a submersible pump station and standby power building at the Lupine site



would result in temporary negative impacts to surrounding wetlands during construction. Construction noise, lights, and overall construction activities and human presence will affect species and their habitat outside of the construction zone established and the adjacent wetland area. As described, the pump station and standby power building would disturb an area of roughly 750 square feet. While the pump station is submersible and will be located underground, it also requires an above-ground power building, and involves the placement of roughly 750 square feet of pavement. The use of standby power (when necessary) would be temporary and very intermittent and would not cause prolonged disturbance (i.e. noise, light, or human activity) to nearby wetlands. The station has been designed to protect impacts to the wetlands that may result from erosion, runoff, or operational mishap.

To address wetland setback requirements, the terms of the County's approval required the facility to be set back a minimum of 75 feet from the edge of the wetlands, with a greater setback where feasible. Towards this end, re-orienting the standby power building in combination with re-locating the fence closer to the facility will maximize wetland setback. Such revisions are necessary to bring the project into conformance with LCP wetland protection standards, and are required Special Condition 18c.

Issues have also been raised regarding the possible unauthorized placement of fill material at this location, and how such fill may relate to the issue of wetland setback. While no record of a Commission approved coastal development permit has been found authorizing the placement of fill material, copies of County building permits show that placement of some fill material was authorized by San Luis Obispo County in 1985, prior to the certification of the LCP.¹⁹ The permit shows that the area filled (parcels 12-15 and 6-8) as being in the same location as the currently existing wetland, rather than on the parcels proposed for development (See Exhibit 5). In addition, sub-surface soils investigations within the immediate proximity of the proposed pump station location found no evidence of estuarine materials suggesting the historical presence of a wetland. Thus, there does not appear any evidence to support claims that the proposed pump station is not located on a filled wetland.

Finally, the plans submitted for the Lupine pump station show a series of connecting sewer laterals to vacant lots located within the identified wetland resource. Clearly, the installation of sewer laterals within identified wetland habitat areas raises issues of compliance with LCP development standards. This is not just an issue at this location, but is a concern community wide. The issue of ESHA impacts associated with the provision of wastewater service to vacant parcels is discussed at length in the ESHA section of this report. In short, until these issues are addressed through an update to the LCP, the sewer laterals shown connected to vacant lots, particularly those containing known wetlands, should not be included in the approved plans, nor should they be constructed under this project approval.

Baywood Pump Station

The Baywood Pump Station is located entirely within the paved right of way of 2nd Street and will be constructed underground. 2nd Street runs along the edge of the Morro Bay Estuary and provides little separation between the street, the pump station, and the identified wetland resource.

¹⁹ A grading permit (No. 51365) was issued on October 7, 1985 to place approximately 1,600 yards of fill over a 18,160 square foot area. The depth of the fill ranges from 1 foot to 3 feet. The project was completed on March 25, 1987.



According to the project consultants, a feasible alternative is relocate the pump station slightly north on 2nd street to observe the required LCP setback. Such a relocation would not, however, avoid the need for construction within the wetland setback area due to the necessary construction of collection lines, and thus, does not offer any environmental benefit.

East Paso Pump Station

The East Paso Pump Station, which includes a standby power building and harvest well, is to be constructed in a vacant field at the intersection 18th Street and Paso Robles Avenue that contains isolated willows supported by a drainage culvert under 18th Street. County Conditions incorporated into this permit require a setback of about 30 feet from the potential wetland area, which is the maximum feasible setback distance from the that can be achieved given the configuration of the pump station lot. Alternative lots do not offer a less damaging alternative given the unavoidable construction of collection lines within the vicinity of the pump station.

Collection Lines on 18th

The sewer lines on 18th Street include collection lines and laterals to serve existing lots of record. that will be “microtunneled” to avoid identified potential wetland areas, which, as described above, consist of isolated willow trees associated with local drainage patterns. I comparison the other wetlands discussed above, (e.g. 4th Street and Lupine/Donna), these areas do not support a significant level of biological sensitivity or productivity that would be threatened by potential impacts from microtunneling or future pipeline maintenance. Moreover, there do not appear to be feasible alternatives alignments that would avoid the need for such boring.

Force Main Within Ravenna Right-of Way

The project plans show a proposed force main extending north on undeveloped portions of the Ravenna Avenue right-of-way, past the proposed WWTF and connecting to Skyline and Ramona Avenues to the north. This route traverses the 55-acre open space area surrounding the treatment plant, and passes near two identified potential wetland areas. One area consists of isolated willows and a subsurface spring. A minimum 50 feet setback is proposed here. The other is a gully fed by urban runoff from Los Osos Valley Road. Plans show approximately 10-20 feet of setback from this wetland area.

As with other portions of the collection system within and adjacent to wetland areas, alternative alignments that achieve a 100-foot wetland setback must be evaluated. In this case, the proposed location of the treatment facilities, as well as the presence of coastal scrub habitat, also factor into the alternatives analysis. Rather than aligning this section of pipeline in a manner that minimizes overall impact to coastal resources, it appears that the proposed alignment was based entirely on the alignment of the Ravenna Avenue paper street. Further evaluation and implementation of potentially less damaging alignments is therefore required by the conditions of this permit.

b. Pipeline Borings

The LCP requires that development located within or adjacent to wetlands shall not significantly disrupt



the resource, and that the development be compatible with the biological continuance of the resource (ESHA Policies 1,5,14, and CZLUO Sections 23.07.170-172). These LCP policies and ordinances recognize that development within or in close proximity to wetlands can have negative resource impacts and should be avoided if feasible. In instances where the trenching of pipelines cannot directly avoid wetlands, the applicant is proposing to bore under the wetlands using a technique called “microtunneling”, beginning and ending past the edges of the wetland resource.

Proposed microtunneling activities can cause the inadvertent discharge of drilling muds and pollutants into wetland habitat areas. Of particular concern is the proposed boring under wetlands on Donna Avenue (between Lupine Avenue and Binscarth Street), and between Solano Avenue and Pecho Road (in the vicinity of Henrietta). In these areas, drilling activities will occur within the 100-foot setback called for by the LCP and pose a risk to the sensitive wetlands due to the possibility of a “frac-out” (when drilling mud used to lubricate the drill head is inadvertently released at the surface) and associated damage to the wetlands. Also of concern is the potential for pipelines located under wetlands to fail or break, which would result in the discharge of harmful sewage materials into sensitive wetland habitats, and require repair and maintenance activities that could damage wetland resources.

Short Term Impacts

Microtunneling is typically performed using a cutting head and water that is used to cut away soil at the tunnel heading, and return the excavated material in the form of a water-soil slurry. The primary risk to the environment from this method of drilling is the possibility of a “frac-out”. A frac-out is when the drilling fluids pressure being applied within an excavated cavity exceeds the earth pressure, allowing the soil to fracture and fluid to migrate through the fissured ground during boring. Drilling fluids are sometimes released at the ground surface. Frac-outs are typically dealt with by vacuuming the released lubricant while slowing the bore advancement past the fracture point, or attempting to plug the fracture using natural materials or chemical sealants.

Frac-outs may be terrestrial or aquatic in nature and vary in size and quantity. Terrestrial frac-outs are typically easier to contain and therefore result in temporary impacts to the environment. Aquatic frac-outs are more problematic because drilling lubricants disperse rapidly and settle in water. There are two specific indirect effects of drilling lubricant on aquatic life. First, the drilling lubricant, which is suspended in the water column, may inhibit respiration of fishes and other aquatic life. Next, once the lubricant settles, secondary long-term impacts can result. For example, egg masses of aquatic life can be smothered, inhibiting flow of dissolved oxygen to the eggs. Or, aquatic organisms may be covered and suffocate due to fouled gills and/or lack of oxygen.²⁰

Past experience with directional drilling shows that frac-outs are often common at stream and creek crossings due to the presence of poorly consolidated alluvial sediments. Microtunneling proposed for this project does not cross under coastal streams and creeks, but crosses under pockets of isolated wetlands, groundwater seeps, and roadside drainage channels that have similar geologic characteristics

²⁰ Forkert Engineering and Surveying, Inc. and Chambers Group Inc., *Horizontal Directional Drilling: Contingency and Resource Protection Plan for Construction of the AT&T Fiber Optic Cable Installation Project*. November 2001, pg. 2.



(i.e., Lupine/Donna Ave, Solano/Butte Drive connection, and E. Paso pump station respectively).

To address these concerns, the geotechnical engineer for the project assessed the feasibility of using microtunneling under the identified wetland areas.²¹ Site conditions were described as being extremely difficult, as discussed in the assessment and reiterated in a follow-up letter dated July 22, 2004. In his letter, the geotechnical engineer states:

“The subsurface conditions encountered in the areas of the proposed trenchless installation consisted of shallow groundwater (near to the ground surface), loose sand, and interbedded clay. As discussed in the Geotechnical Report, the ground conditions that are likely to be encountered in the wetland areas are some of the most challenging to boring contractors can encounter. In addition, the design of the pipeline will require that emplaced pipe be installed to a specific grade to maintain gravity flow in the pipe with as shallow as approximately 3 to 4 feet of cover.”

It should also be noted that microtunneling does not always require the use of bentonite drilling muds. Biodegradable drilling muds are available and in some cases may not be needed. According to the engineer, however, each boring contractor does this type of work differently and the use of drilling muds cannot be eliminated. As such, the potential for a frac-out, and resulting damage to sensitive wetlands cannot be ruled out.

Long Term and Other Impacts

The potential for future sewage leaks and spills to occur under and adjacent to wetlands also pose significant adverse impacts to sensitive coastal wetlands. The underground alignment below surface waters would make small leaks difficult to detect. Such leaks could cause sewage to surface in the wetland environment and diminish the biological productivity of coastal wetlands. In the event of a major failure, the underground location below shallow surface water and dense vegetation would make repairs difficult to complete without significant disturbances to the wetland area, and such repairs would have the potential to further damage wetland resources.

Another issue associated with boring, while not directly related to wetland protection, would be the impact on archaeological resources, particularly in areas where cultural deposits have yet to be identified. Conventional trench installation provides an opportunity for monitors to halt construction the instance resources are encountered. With boring, however, archaeological resources may not be observed until the drilling has been completed, making avoidance of such impacts more difficult.

Alternatives to Boring

As with other components of the collection system, like the pocket pump station on 4th Avenue, alternatives must be considered that might better avoid development within wetlands and adverse wetland impacts, both in the short and long terms.

Lupine Alternative - The applicant has provided one alternative to boring under wetlands at the Lupine

²¹ Furgo West, *Geotechnical Report, Los Osos Wastewater Project*, March 9, 2004).



Pump Station. In lieu of using trenchless technology to cross under the identified wetland, the force main can be re-routed from the Lupine Pump Station east on Lupine Street, south on Fearn Avenue, east on Binscarth Road, and then match the remaining alignment to the wastewater treatment facility. This would require either an air/vacuum release station near the intersection of Lupine Street and Fearn Avenue, or a deeper trench than the current alignment to accommodate a higher ground surface elevation with the revised route.

Solano/Butte to Pecho/Henrietta Alternative – As an alternative to microtunneling a gravity line under the wetland between Solano/Butte Drive and Pecho Rd., the LOCSD could construct a pump station that would convey collected wastewater south on Solano Street and east on Skyline Drive via force main, for discharge to a gravity sewer main at the intersection of Skyline Drive and Pecho Rd.

From a wetland and sensitive habitat protection standpoint, the most significant difference between these options and microtunneling relates to the ability to avoid harmful discharges to wetlands, both during construction and over the long-term. As previously noted, an inland alignment within existing roads would avoid potential adverse impacts with microtunneling, and provide a better opportunity for leaks to be detected and repaired in a timely manner. The ability to quickly detect and repair such leaks provides an effective means of preventing significant long-term impacts. In comparison, the difficulties of detecting and repairing leaks from an underground pipe, would result in a more persistent presence of inadequately treated sewage that pose more significant long-term adverse effects to aquatic habitats and coastal wetlands.

From an engineering standpoint both of the alternatives are feasible. In addition, the LOCSD provided a comparison of the estimated construction costs between the Solano PS alternative and current design with microtunneling. According to the cost analysis, the net savings of microtunneling under the wetland is approximately \$200,000. However, the analysis fails to include annual labor and maintenance costs for microtunneling for comparison. As described previously, maintenance of lines beneath sensitive habitat areas pose significant risk to the resource and would likely result in greater overall maintenance costs should problems occur. Irrespective of this point, it does not appear that the alternative Solano PS is prohibitively expensive.

Conclusion

The current proposal to microtunnel under sensitive wetland areas is inconsistent with the LCP. Alternatives to trenchless boring under wetlands on Donna Avenue and for the Solano to Pecho connection are available and can better avoid and minimize potential wetland impacts to the benefit of the resource. As described above, both of the alternatives evaluated would place the sewer lines within existing road alignments and further away from sensitive wetland areas. Given the potential for impacts to occur during microtunneling and the high level of difficulty associated with long-term maintenance of sewer lines under wetland habitats, both alternatives must be implemented (Special Conditions 18c & 18g). Only with these conditions can the project be found consistent with the LCP.

c. Septic Tank Decommissioning



The project will gradually decommission as many as 5000 septic systems and replace them with a wastewater treatment facility. The wastewater treatment facility would reintroduce treated effluent to the aquifer through leach systems, and a series of “harvest wells” would be installed to allow for the pumping of excess leachate in order to keep ground water levels from rising to problematic levels in the areas of the leach fields.

Individual septic systems augment a naturally occurring supply of freshwater to wetlands located in Los Osos. Concerns have been raised that decommissioning septic tanks will change groundwater levels in a manner that could adversely affect wetlands. In other words, removal of the septic systems could result in the lowering of groundwater tables with potential impacts to wetlands in the area. During the period after septic systems are decommissioned and before groundwater levels begin to stabilize, there is the potential for adverse affects on the extent and composition of wetland resources. Another concern is that the replacement of diffuse groundwater sources (i.e. 5,000 different septic tanks) with a few point sources will result in a local redistribution of groundwater recharge, even if overall ground water balance is maintained. Finally, several options are given for disposal of the “harvest waters” extracted from areas of near surface groundwater. Any of the options that remove harvest water from the upper aquifer groundwater basin will result in a net decrease in groundwater levels in that basin.

The EIR for the project evaluated potential impacts associated with changes in groundwater levels due to the decommissioning of septic systems and concluded that although localized alterations of habitats may occur, no net loss of wetland habitat is anticipated. Nonetheless, Commission staff and the LOCSD have undertaken further investigations to address the potential impacts to wetlands as a result of terminating the use of individual septic systems throughout the community.

With respect to wetland impacts due to overall lowering of groundwater tables, the location of the wetlands in Los Osos is an important consideration. The wetlands in Los Osos are for the most part located near sea level (on the fringe of Morro Bay) near discharge points for groundwater. Any lowering of the water table in the upper aquifer would be smaller in these areas than in areas further from the coast and sloughs. The potential for localized changes in groundwater levels to affect these areas is further reduced by the fact that the process of decommissioning septic systems is expected to occur over a twelve month period or more, as the collection lines become available for service. This equates to roughly 20 septic systems per day taken out of service. Thus, the potential lowering of groundwater levels would occur gradually and be spread throughout the community.

Nevertheless, additional precautions are needed to ensure that septic tank decommissioning avoids adverse impacts to wetlands. Specifically, special Condition 20 requires the LOCSD to prepare and implement a Groundwater Level Monitoring and Management Plan that provides a means for identifying and responding to any changes in groundwater levels that may affect wetland hydrology. In accordance with the scope of work proposed by the LOCSD in its letter of June 28, 2004, the plan shall include provisions for monitoring groundwater levels, surveys for wetland plant and animals, monitoring wetland hydrology and water quality, response procedures should impacts be identified, and annual reporting.



d. Treatment Facilities

As noted above, recent wetland investigation completed by the applicant indicate that a portion of the Ravenna Avenue roadway, the Treatment Facility entrance, and the proposed stormwater retention basin in the northwest corner of the treatment plant site, encroach within 100 feet of a potential wetland area described as a gully formed by stormwater runoff. In conflict with LCP wetland and ESHA requirements, the permit application does not provide the information necessary to determine the presence of wetland resources, or evaluate whether there are feasible less environmentally damaging alternatives that would achieve compliance with wetland setback standards. As a result, the conditions of this permit require the applicant to: analyze the feasibility of reconfiguring the treatment plant design to provide a 100 foot setback from the identified potential wetland and implement such alternatives where feasible; or, complete a wetland delineation to the satisfaction of the Executive Director documenting that no wetland areas, as defined by the LCP, occur within 100 feet of the development.

3. Conclusion

In order to carry out LCP wetland protection standards, the project must be modified to remove collection system components from within wetland resources, avoid potential adverse impacts from microtunneling under wetlands, ensure that wetlands are not impacted due to changes in groundwater levels through septic system decommissioning, and evaluate and implement feasible treatment plant design alternatives that provide a 100-foot setback from wetland areas. Such modifications to the project are necessary to protect the natural ecological functioning and productivity of wetlands, and to ensure the project will not significantly disrupt the wetland habitat. As a result, the project can only be found consistent with the wetland protection provisions of the certified LCP with the conditions set forth by this permit and described above.



J. Visual Resources

1. LCP Standards

LCP Policy 1 for Visual and Scenic Resources states:

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

LCP Policy 2 for Visual and Scenic Resources states:

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

LCP Policy 5 for Visual and Scenic Resources states:

Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with the adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

LCP Policy 7 for Visual and Scenic Resources states:

The location and design of new development shall minimize the need for tree removal. When trees must be removed to accommodate new development or because they are determined to be a safety hazard, the site is to be replanted with similar species or other species which are reflective of the community character. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.064 OF THE CZLUO.]

CZLUO Section 23.05.034 states in part:

23.05.034 Grading Standards:

All excavations and fills, whether or not subject to the permit requirements of this title, shall be conducted in accordance with the provisions of Sections 7009 through 7013 of the Uniform Building Code, and the following standards:

...

d. Landform alterations within public view corridors. Grading, vegetation removal and other



landform alterations shall be minimized on sites located within areas determined by the Planning Director to be a public view corridors from collector or arterial roads. Where feasible, contours of finished grading are to blend with adjacent natural terrain to achieve a consistent grade and appearance.

- e. Final contours: Contours, elevations and shapes of finished surfaces are to be blended with adjacent natural terrain to achieve a consistent grade and natural appearance. Border of cut slopes and fills are to be rounded off to a minimum radius of five feet to blend with the natural terrain.*

...

- g. Revegetation: Where natural vegetation has been removed through grading in areas not affected by the landscape requirements (Section 23.04.180 et seq. Landscape, Screening and Fencing), and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed. [Amended 1993, Ord. 2649]*

(1) Preparation for revegetation: Topsoil removed from the surface in preparation for grading and construction is to be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.

(2) Methods of revegetation: Acceptable methods of revegetation include hydro-mulching, or the planting of rye grass, barley or other seed with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four pounds to each 1,000 square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Building Official. Plant materials shall be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to reduce irrigation demands. Where riparian vegetation has been removed, riparian plant species shall be used for revegetation.

(3) Timing of revegetation measures: Permanent revegetation or landscaping should begin on the construction site as soon as practical and shall begin no later than six months after achieving final grades and utility emplacements.

CZLUO Section 23.05.064 states:

23.05.064 Tree Removal Standards.

Applications for tree removal in accordance with Section 23.05.062 are to be approved only when the following conditions are satisfied:



...

- d. *Tree removal within public view corridors. Tree removal within public view corridors (areas visible from collector or arterial roads) shall be minimized in accordance with Visual and Scenic Resources Policy 5.*
- e. *Preservation of trees and natural vegetation. New development shall incorporate design techniques and methods that minimize the need for tree removal.*

Visual resource protection standards for the development of a wastewater treatment plant on the Tri-W site that were incorporated into the Estero Area Plan by LCP Amendment 3-01 are attached to this report as Exhibit 4.

Another applicable policy of the Estero Area Plan is South Bay Urban Area Communitywide Standard 8, which states:

Planned Development. The portion of the property north of Los Osos Valley Road shall be developed as a planned development to allow for a variety of housing types and densities, commercial public facilities, office and professional uses to be located in the least sensitive portions of the site and the most sensitive portions retained as open space/recreation use as determined by the planned development review. The adopted Development Plan shall be revised to incorporate the provisions of the LUE.

2. Analysis

The most significant visual impact of the project is the construction of a treatment plant on the currently undeveloped Tri-W site, which is adjacent to Los Osos Valley Road (a primary arterial), and affords views of Morro Bay, Morro Rock, Hollister Peak, and the Irish Hills. The scenic attributes of the Tri-W site, which includes its natural habitats, are contained within an urban context and therefore appreciated by the large volumes of people traveling to and from Los Osos, as well as local residents who use the informal trails and open space for recreation. Nevertheless, the sites urban surroundings diminish its significance as a highly scenic area in comparison to the remarkable coastal viewing areas located along the community's waterfront, parks, and beaches.

In light of the urban setting, the LCP's land use designations have always allowed for commercial development at the Tri-W site. (Wastewater treatment facilities were added to the range of commercial retail and office and professional uses allowed by the LCP in 2002.) To accommodate the allowed uses in a manner that minimizes visual impacts, the LCP requires development to be located on the least sensitive portions of the site, and designed and reviewed on a comprehensive, rather than project-by-project, basis (see South Bay Urban Area Community Wide Standard 8).

In an effort to comply with these requirements, the proposed project has provided a comprehensive plan for the Tri-W site that locates the treatment facilities in a low area of the property, and incorporates a design that has set the partially buried facility into the natural grade. The building pad for the treatment



facilities will be excavated to a level below the elevation of Los Osos Valley Road, and the tallest treatment building will extend no higher than 15 feet above the road. Other measures to minimize visual impacts include:

- Locating the aeration basin underground;
- Installing landscaped berms around the facility;
- Constructing curvilinear screening walls (“wave walls”); and,
- Using colors, materials, and textures for the treatment buildings and screening walls that are compatible with the surrounding environment.

Notwithstanding these measures, the project will undoubtedly change the character of the site from undeveloped, informally used open space, to a developed public facility. The most significant changes will result from the construction of treatment buildings, and from the grading, landform alteration, and vegetation removal required to accommodate the project. As demonstrated by the story poles recently erected by the District the project will block some coastal views, and intrude upon scenic open space areas.

These impacts are not, however, inconsistent with the standards of the LCP, which, as noted above, anticipate an urban level of development on the Tri-W site. Although some coastal views will be impacted, new views will be gained, both from the removal of eucalyptus trees and the increased opportunities for public use of the site. While the development of the treatment plant and other project facilities will alter, and, in the opinion of some, degrade, the scenic qualities of the area, these impacts have been minimized and mitigated consistent with the requirements of the LCP, as detailed below.

Policy 1 for Visual and Scenic Resources: The treatment facilities will alter, but not adversely impact, the unique and attractive features of the landscape. Although some public views will be blocked, others will be gained, and the net result will preserve and enhance opportunities for the public to view scenic features such as Morro Rock, Morro Bay, Hollister Peak, and the Irish Hills. Visual impacts associated with vegetation removal and landform alterations that cannot be avoided are offset by landscape and grading plans that provide site contours and plantings that are compatible with the surrounding environment.

Policy 2 for Visual and Scenic Resources: The treatment plant has been located and designed to minimize impacts to scenic views. In accordance with Policy 2, visual intrusion is minimized by locating portions of the facility underground, establishing a low elevation building pad, and using slopes (berms) to shield the development from public view.

Policy 5 for Visual and Scenic Resources and CZLUO Section 25.05.034a-f: Although the project involves extensive grading, earthmoving has been limited to that which is necessary to construct the project in a manner that minimizes impacts to public views. Finished site contours will blend with the adjacent terrain to achieve a natural appearance. Vegetation removal is necessary to accommodate the



project, and will have only temporary impacts that will be offset by project landscaping.

Policy 7 for Visual and Scenic Resources and Sections 23.05.034g and 23.05.064 of the CZLUO: Tree removal has been limited to that which is necessary to accommodate the development of the wastewater treatment plant and the ancillary facilities allowed by LCP Amendment 3-01. The County's approval found to project to be consistent with these requirements as follows:

A tree removal plan has been submitted as part of the application materials. The treatment plant site has 53 mature and numerous smaller eucalyptus trees (see Tree Removal Plan). All of these will be removed for the construction of the treatment plant and storm water facilities. The preliminary landscape plan proposes to replace these trees with a comprehensive replanting of the site, with almost 100 trees throughout the 11 acres. The Broderson leach fields will require the removal of 42 mature eucalyptus trees. These will be replaced with native coastal sage scrub plantings in order to comply with Habitat Conservation Plan conditions. The Monterey Pine will remain. The project will be further conditioned to ensure that the removal of trees does not disturb raptor nesting²². None of these trees have been identified as important roosting sites for Monarch butterflies.

To address LCP requirements for the replacement of vegetation to be removed, conditions of approval have been attached to this permit that require installation and maintenance of coastal scrub vegetation of the Broderson site, and the use of a variety of evergreen trees around the perimeter of the treatment facility that will reach a minimum height of 25 feet within 5 years to ensure effective screening. Palm trees, Italian Cypress, and other distinctly shaped non-native trees are expressly prohibited. Conditions 23 – 25 require hydro seeding and revegetation of disturbed areas in accordance with CZLUO Section 23.05.034g.

Visual Mitigation Measures identified by the project EIR and required by LCP Amendment 3-01: To carry out LCP and EIR visual impact mitigation requirements, conditions of permit approval require:

- locating construction storage and staging areas outside view corridors, in accordance with Mitigation Measure AES-1;
- landscape plans that carry out Mitigation Measure AES-3;
- restoration of the Broderson percolation field in accordance with Mitigation Measure AES-4; and,
- lighting plans that carry out Mitigation Measure AES-5.

As discussed above, the treatment plant has been sited and designed to conform to LCP development standards, as required by Mitigation Measure AES-2.

Estero Area Plan Standard 8: The project provides a comprehensive development plan for the Tri-W site that orients the treatment facility to avoid sensitive view corridors and retains over 8 of the 11 acres for

²² This condition has been incorporated within the terms of Commission approval – see Special Condition _.



open space and public recreation that will provide enhanced opportunities to view scenic coastal resources.

3. Conclusion

The Los Osos wastewater treatment project has been sited and designed to avoid and minimize impacts on coastal views. As conditioned, the project will provide landscaping, habitat restoration, visual screening of the treatment facility, and other visual resource protection measures that will preserve views of scenic coastal areas. Therefore, as conditioned, the project is consistent with LCP visual and scenic resource protection standards.

G. Marine Habitats and Coastal Water Quality

1. LCP Standards

Policy 9 for Coastal Watersheds states:

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based in evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site-specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 10 for Coastal Watersheds states:

Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

Section 23.05.040 of the CZLUO states:

23.05.040 Drainage:

Standards for the control of drainage and drainage facilities provide for designing projects to minimize harmful effects of storm water runoff and resulting inundation and erosion on proposed projects, and to protect neighboring and downstream properties from drainage problems resulting from new development. The standards of Sections 23.05.042 through 23.05.050 are applicable to projects and activities required to have land use permit approval.



LCP Water Quality Standards specific to the development of the Los Osos Wastewater Treatment Project established by LCP Amendment 3-01 are included in Exhibit 4.

2. Analysis

Despite the benefits to coastal water quality and the marine habitats of the Morro Bay National Estuary offered by the proposed replacement of septic systems with a wastewater treatment plant, concerns have been raised that the proximity of the treatment plant to Morro Bay, and its location in an area that receives large amounts of stormwater runoff, pose significant risks to Marine Resources. Much of the South Bay Urban Area lacks stormwater infrastructure, and the impacts of uncontrolled runoff from the surrounding hillside are clearly evident at the treatment plant site in the form of eroded gullies and localized ponding during storm events.

The hydrologic features of the treatment plant site, and its relationship to areawide drainage patterns, have been thoroughly considered in the design of the project. Use of the Tri-W site for wastewater treatment has been viewed by the LOCSD as an opportunity to address these localized drainage problems. The preliminary drainage plan provides a stormwater percolation basin designed to accommodate runoff from surrounding area during a 100-year storm event. On-site drainage will be conveyed to a retention basin located in the northwest corner of the treatment plant site that has been designed to accommodate a 50-year storm.

To protect water quality during and after construction, the LOCSD is responsible for: obtaining a National Pollutant Discharge Elimination System (NPDES) permit from the RWQCB that must also be approved by the County Engineering Department; preparing a final grading, drainage, and erosion control plan for the Tri-W site that incorporates the recommendations of a geotechnical engineering evaluation; and, developing a long-term erosion control plan that identifies the erosion control practices to be implemented throughout the construction and operation of the wastewater treatment facilities. These terms have been incorporated as conditions of Commission approval and effectively carry out the water quality and Marine Resource protection requirements of the LCP.

To address potential sewage spills, system malfunctions, and/or natural disasters, the treatment plant has been designed with 100 percent redundancy; every component has at least one identical back-up that would be brought on-line in the event of failure or malfunction. Operation of the plant will be monitored 24 hours a day. The treatment plant will be equipped with its own backup diesel power generator in case of power failure, and will accommodate between 8-12 hours of overflow capacity in the unlikely event that the treatment plant cannot operate. In accordance with RWQCB and DOHS requirements, the LOCSD will prepare an Emergency Response Plan that will prescribe procedures for responding to sewer or chemical spills. Standards for seismic and geologic safety, and a requirement for a Hazardous Materials Management Plan, have been attached as conditions of permit approval and further serve to ensure project compliance with the marine resource protection objectives of the LCP. Most importantly, correcting water quality problems associated with existing septic discharges and uncontrolled drainage on the Tri-W site will have a beneficial impact on the Morro Bay National Estuary.



3. Conclusion

Water quality and drainage issues associated with the proposed location of wastewater treatment facilities have been addressed by the project design and the terms of permit approval. The project will improve water quality, and will thereby have a beneficial impact on marine habitats. Adverse impacts posed by project development and operations are addressed by conditions regulating construction activities (e.g., grading, dewatering, and erosion control), drainage improvements, hazardous material containment, and seismic safety. With these conditions, the project conforms to LCP marine resource protection requirements.

F. Archaeological Resources

1. LCP Policies

Policy 1 for Archaeological Resources states:

The County shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 4 for Archaeological Resources states:

Development shall require a preliminary site survey by a qualified archaeologist knowledgeable on Chumash culture prior to a determination of the potential environmental impacts of the project. [THIS SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.106²³ OF THE CZLUO.]

Policy 5 for Archaeological Resources states in part:

Where substantial resources are found as a result of a preliminary survey before construction, the county shall require a mitigation plan to protect the site. ... [THIS SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.106 OF THE CZLUO.]

CZLUO Section 23.07.104 states:

23.07.104 Archaeologically Sensitive Areas:

To protect and preserve archaeological resources, the following procedures and requirements apply to development within areas of the coastal zone identified as archaeologically sensitive.

²³ References to CZLUO Section 23.07.106 are a typographical error in the Coastal Plan Policies document. The applicable ordinance is 23.07.104.



- a. *Archaeologically sensitive areas. The following areas are defined as archaeologically sensitive:*
- (1) *Any parcel within a rural area which is identified on the rural parcel number list prepared by the California Archaeological Site Survey Office on file with the county Planning Department.*
 - (2) *Any parcel within an urban or village area which is located within an archaeologically sensitive area as delineated by the official maps (Part III) of the Land Use Element.*
 - (3) *Any other parcel containing a known archaeological site recorded by the California Archaeological Site Survey Office.*
- b. *Preliminary site survey required. Before issuance of a land use or construction permit for development within an archaeologically sensitive area, a preliminary site survey shall be required. The survey shall be conducted by an archaeologist knowledgeable in Chumash Indian culture and approved by the Environmental Coordinator. The purpose of the preliminary site survey is to examine existing records and to conduct a preliminary surface check of the site to determine the likelihood of the existence of resources. The report of the archaeologist shall be submitted to the Planning Department and considered in the evaluation of the development request by the applicable approval body.*
- c. *When a mitigation plan is required. If the preliminary site survey determines that proposed development may have significant effects on existing, known or suspected archaeological resources, a plan for mitigation shall be prepared by the archeologist. The purpose of the plan is to protect the resource. The plan may recommend the need for further study, subsurface testing, monitoring during construction activities, project redesign, or other actions to mitigate the impacts on the resource. The mitigation plan shall be submitted to and approved by the Environmental Coordinator, and considered in the evaluation of the development request by the applicable approval body.*
- d. *Required finding. A land use or construction permit may be approved for a project within an archaeologically sensitive area only where the applicable approval body first finds that the project design and development incorporates adequate measures to ensure protection of significant archeological resources.*
- e. *Archeological resources discovery. In the event archeological resources are unearthed or discovered during any construction activities, the standards of Section 23.05.140 of this title shall apply.*

Additional archaeological protection and mitigation standards established for the sewer project by the EIR and incorporated into the Estero Area Plan via LCP Amendment 3-01 are attached to this report as Exhibit 4.



2. Analysis

Impacts to coastal resources from the construction of the collection system, treatment system, and disposal system were evaluated by the project EIR by investigating records for the project area, interviewing archaeological experts, and conducting site surveys at the Tri-W and Broderson sites. In analyzing the project's consistency with LCP archaeological studies, County staff also reviewed and applied earlier archaeological studies for the project area. According to these reviews, no resources were found at either the Tri-W or Broderson sites, and the largest area of expected impact will involve the collection system. Since collection pipes will occur below existing roadways, the County determined that site surface survey were not practical.

In accordance with LCP requirements LCP, the LOCSD has developed a resource mitigation plan that has been submitted to and approved by the State Historic Preservation Office. This plan specified procedures for further study, subsurface testing, monitoring during construction activities, and compilation of an archaeological resource database. Specifically, the Cultural Resources Treatment Plan calls for a comprehensive investigation of all trenching work during the project's construction. This will include cataloging of archaeological resources in the location where future lateral connections to the collection system will take place. The location of future lateral collections will be adjusted where possible to avoid archaeological resources, and accompanied by archaeological resource monitoring in areas where the cataloging program identifies the potential for archaeological resources to exist.

Given these measures, the project conforms to the applicable LCP requirements as summarized below:

Policy 1 for Archaeological Resources: The extent of excavation required to install a wastewater collection system makes the avoidance of impacts to archaeological resources infeasible. The LOCSD and the County have developed an adequate mitigation plan, in coordination with the State Historic Preservation Office, to address unavoidable impacts.

Policy 4 for Archaeological Resources: Site surveys have been conducted at both the treatment plant site and the primary disposal site by qualified archaeologists, and no cultural resources were found. Although site surveys were not conducted for the collection system due to its location beneath roadways, potential impacts to cultural resources have been anticipated and appropriately addressed.

Policy 5 for Archaeological Resources: A cultural mitigation program in accordance with this policy.

CZLUO Section 23.07.104: Ordinance requirements for mitigating impacts to archaeological resources are implemented by permit conditions 34-37.



3. Conclusion

Cultural resource issues associated with the construction of the wastewater project have been addressed by the project design and the terms of permit approval. As conditioned, the project is consistent with the standards for protecting Archaeological Resources established by the LCP.

H. Hazards

1. LCP Standards

Policy 1 for Hazards states in relevant part:

All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. ... [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD]

Policy 2 for Hazards states:

New development shall ensure structural stability while not creating or contributing to erosion or geologic instability. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.086 OF THE CZLUO.]

CZLUO Section 23.08.288 states in part:

23.08.288 Public Utility Facilities: The requirements of this section apply to Public Utility Facilities where designated as S-13 uses by Coastal Table 'O', Part I of the Land Use Element.

...

b. Application contents. In addition to the application materials required by Chapter 23.02 (Permit applications), permit applications shall also include descriptions of:

...

(4) An oil and hazardous material spill contingency plan, including a demonstration that all materials can be contained on-site.

2. Analysis

a. Geologic Hazards

The proposed project has undergone a thorough review of geologic stability and seismic safety issues. The project EIR notes the inferred presence of a strand of the Los Osos fault on the east side of the Tri-W site due to the different groundwater levels between the east and west sides of the community. Sub-surface investigations did not, however, identify the presence of a fault, or any surface displacement that would indicate the presence of an active fault. Conditions of approval have been attached to this permit



to ensure that the project is designed and constructed to provide the level of seismic safety required by the LCP.

In response to concerns about the impact of subsurface disposal of treated wastewater on geologic stability, a liquefaction analysis of the various disposal sites was conducted as part of the project EIR. This analysis concluded that liquefaction potential would generally be no different than present conditions once the septic systems cease operation and the disposal leach fields are installed. Similarly, a technical analysis of the potential for treated wastewater disposal to result in groundwater mounding or daylighting (i.e., seepage to the surface particularly in hillside areas) was performed. The LOCSD used this modeling effort to determine the location of monitoring and harvesting wells that will be used to track and manage groundwater levels and avoid such impacts.

b. Sludge Disposal

Project opponents have raised concerns regarding the public health hazards associated with sludge disposal. According to the County's and the RWQCB's analysis, there is nothing inherent in the sludge produced from the wastewater treatment process that would result in it being classified as a hazardous material (i.e., a substance that has an excessively low or high pH, heavy metals, or toxic chemical above thresholds established by the EPA). Since Los Osos is a primarily residential community with some commercial establishments and virtually no industry, the County concluded that it is extremely unlikely that hazardous materials will be found within the wastewater or sludge. In the unlikely instance there was such materials, the hazards associated with the trucking of sludge would be no different than the ongoing hazards associated with the transportation and disposal of septage from septic tanks.

3. Conclusion

The wastewater treatment project has been designed and conditioned in a manner that addresses hazards consistent with the requirements of the LCP. (See findings regarding Marine Resources and Coastal Water Quality for an analysis of potential hazards associated with drainage, discharges, and sewage spills.)

G. Odors

1. LCP Standards

CZLUO Section 23.06.084 states:

23.06.084 Odors:

Any non-agricultural land use conducted in, or within one-half mile of an urban or village reserve line is to be so operated as not to emit matter causing noxious odors which are perceptible at the points of determination identified in the following table:



<i>Land Use Category in which odor-producing use is located</i>	<i>Point of determination</i>
<i>Residential, Office and Professional, Recreation, Commercial</i>	<i>At or beyond any lot line of the lot containing the use.</i>
<i>Industrial</i>	<i>At or beyond the boundary of the Industrial category.</i>

2. Analysis

The LOCSD has intentionally sited the wastewater treatment facility in a central downtown location in order to meet the project's dual objective of providing the Los Osos Community with needed parks and open space areas. Careful consideration of the impacts of the treatment facility on surrounding land uses has been applied during project design and county review. To prevent the project from having a negative impact on adjacent development, the project employs odor and dust controls, and will use hazardous material containment precautions, as further discussed below.

The production of odors by the treatment system will be minimized by reducing the time under which organic materials decompose prior to treatment through relatively rapid delivery of wastewater from the collection system to the treatment plant²⁴. In addition, the Los Osos climate and the aerobic treatment process will avoid elevated temperatures, which can increase odor generation. To prevent any odors that are generated from being discharged in a manner that could adversely impact surrounding development, the treatment system will be enclosed within structures and maintained under negative air pressure, so that outside air is drawn into the facilities and the leakage of odors prevented. Air from the treatment areas will be collected and conveyed to odor scrubbing units consisting of biofilters and carbon filters before being discharged to the atmosphere. Concerns regarding the effectiveness of these odor controls have been reviewed with the San Luis Obispo County Air Pollution Control Board, and are addressed by conditions of approval.

3. Conclusion

The design and local approval of the Los Osos Treatment Facility includes measures to prevent odors. Implementation of these measures in accordance with the conditions of this permit will contain odors consistent with the requirements of the LCP.

²⁴ According to the County's analysis, the estimated time to reach the treatment facility is not expected to exceed 6 hours depending upon the travel distance and the time of day.



I. Access and Recreation

1. LCP Standards and Coastal Act Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. Specifically, Sections 30210 through 30213, 30220 and 30224 of Chapter 3 protect public access and recreation. In particular, these policies require, in relevant part, that:

30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization...*

30212 *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety...or the protection of fragile resources, (2) adequate access exists nearby...*

30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

30214. *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

...

Relevant portions of applicable LCP standards include:

Access Policy1: Protection of Existing Access. *Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These*



rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.420 OF THE CZLUO.]...

Recreation and Visitor Serving Facilities Policy 1: Recreation Opportunities. *Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. ... [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

CZLUO Section 23.04.420: Coastal Access Required.

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act. ...

To address traffic impacts, LCP Amendment 3-01 incorporated the Traffic Mitigation Measures of the Final EIR, which are attached to this report as Exhibit 4.

2. Analysis

As detailed in the adopted findings for LCP Amendment 3-01, the development of a wastewater treatment facility is essential to protect the water quality of Morro Bay, and is thereby also necessary to preserve water-oriented access and recreation opportunities. However, the development of the treatment plant will impact the informal access and recreation activities that take place on the site, as evidenced by the well-worn trails. Although these trails do not provide direct access to the shoreline, they are part of a network of pedestrian routes that provide recreation opportunities and a means to access coastal areas.

Although the project will result in the removal of existing informal trails, a system of new pathways, as well as a multi-use area and dog park, is included in the project design that will prevent the loss of existing access and recreation opportunities. In addition, the LOCSD has agreed to reincorporate public amenities that were included in the site plan reviewed by the Commission during the processing of LCP Amendment 3-01 but later removed by the LOCSD as a cost saving measure. These facilities, which include a 15 space public parking lot and drop off area, an amphitheater, community gardens, restroom, tot-lot, and picnic areas, factored into the previous decision to allow the treatment facility to be located on this site, since other alternatives were rejected on the basis that they did not accomplish project objectives for centrally located community amenities. Therefore, providing these facilities as part of the project, as required by Special conditions 12 and 17, is necessary to fulfill commitments to provide enhanced access and recreation opportunities that were made during the processing of LCP Amendment 3-01.

Another impact to coastal access and recreation opportunities is the traffic and circulation delays during



construction. Special conditions of approval therefore require the LOCSD to prepare and implement a construction management plan in accordance with the EIR mitigation measures incorporated into the Estero Area Plan via LCP Amendment 3-01.

Concerns have been raised that traffic impacts will extend through the life of the project, as a result of the need to haul sludge from the treatment plant to a licensed disposal facility. This issue was addressed during the County's review as follows:

Proposed sludge disposal was described in the Planning Commission staff report and the certified EIR. An extended aeration treatment plant serving the Prohibition Area would produce approximately 1,400 pounds of sludge per day. Although the moisture content of the sludge now proposed by the project is estimated to be 80 percent instead of 25 percent as provided in the final EIR, the impacts associated with its disposal are identical. Namely, sludge will be dewatered at the treatment plant and hauled offsite to approved sludge disposal sites. This would result in approximately 5-8 truck trips per week, which is slightly higher than what was analyzed in the EIR, but still insignificant.

3. Conclusion

The Los Osos Wastewater Treatment Facility will protect the water quality of Morro Bay, and thereby preserve coastal access and recreation opportunities. Conditions of permit approval require the LOCSD to provide the public access and recreation amenities proposed as the time the LCP was amended to accommodate the treatment plant at the Tri-W site, and to develop and implement a construction and operations plan that will minimize traffic and construction impacts to coastal access and recreation opportunities. With these conditions, the project conforms to the public access and recreation policies of the Coastal Act, as well as the public access and recreation provisions of the San Luis Obispo County LCP.

D. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The findings of the staff report, as well as the findings of Commission approval of LCP Amendment 3-01, which are both incorporated into this finding as set forth in full, have addressed CEQA requirements as follows:

Environmental Impacts and Mitigation Measures



The Commission has evaluated the significance of environmental impacts posed by the project, and has added to and expanded on the impacts and mitigation measures identified in the project EIR certified by the LOCSD on March 21. The Commission's conditions of approval require the implementation of measures that will avoid and reduce most environmental impacts to an insignificant level. Unavoidable significant impact associated with the removal of ESHA at the Tri-W site were analyzed as part of LCP Amendment 3-01, in which the Commission found that it was, on balance, more protective of coastal resources to allow the treatment plant to be located on the Tri-W site, because the protection of water quality, coastal access and recreation opportunities, and coastal dependent uses offered by the project outweigh the loss of degraded ESHA at the Tri-W site.

Public Comments

The Commission has evaluated comments and concerns expressed by the public regarding the environmental impacts of the project. In instances where this analysis indicates the potential for significant adverse impacts to the environment, the Commission has attached conditions to its permit approval that will reduce such impacts to an insignificant level. For example, in response to comments received, the Commission has attached conditions that will reduce potentially significant adverse impacts associated with future development enabled by the project, construction of the collection system, decommissioning septic systems, and discharges of groundwater to Morro Bay.

Alternatives

The Commission has evaluated project alternatives, both in this report and its analysis of LCP Amendment 3-01, and concluded that there are no feasible alternatives that would lessen project impacts on the environment.

In accordance with these findings, the Commission has determined that only as modified and conditioned by this permit will the project avoid significant adverse effects on the environment consistent with the requirements of CEQA.

